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Report of the Human Rights Committee

Volume I

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Official Records • Fiftieth Session
Supplement No. 40 (A/50/40)

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NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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I. ORGANIZATIONAL AND OTHER MATTERS

A. States parties to the Covenant

1. As at 28 July 1995, the closing date of the fifty-fourth session of the Human Rights Committee, 131 States had ratified or acceded or said they would accede to the International Covenant on Civil and Political Rights and 94 States had ratified or acceded or said they would accede to the Optional Protocol to the Covenant. Both instruments were adopted by the General Assembly in resolution 2200 A (XXI) of 16 December 1966 and opened for signature and ratification in New York on 19 December 1966. They entered into force on 23 March 1976 in accordance with the provisions of their articles 49 and 9, respectively. Also as at 28 July 1995, 44 States had made the declaration envisaged under article 41, paragraph 1, of the Covenant, which came into force on 28 March 1979.

2. The second Optional Protocol, aiming at the abolition of the death penalty, which was adopted and opened for signature, ratification or accession by the General Assembly in resolution 44/128 of 15 December 1989, entered into force on 11 July 1991 in accordance with the provisions of its article 8. As at 28 July 1995, there were 28 States parties to the second Optional Protocol.

3. A list of States parties to the Covenant and to the Optional Protocols, with an indication of those which have made the declaration under article 41, paragraph 1, of the Covenant, is contained in annex I to the present report.

4. Reservations and other declarations made by a number of States parties in respect of the Covenant or the Optional Protocols are set out in document CCPR/C/2/Rev.4 and in notifications deposited with the Secretary-General.

B. Sessions and agenda

5. The Human Rights Committee has held three sessions since the adoption of its previous annual report. The fifty-second session (1358th to 1386th meetings) was held at the United Nations Office at Geneva from 17 October to 4 November 1994, the fifty-third session (1387th to 1415th meetings) at United Nations Headquarters from 20 March to 7 April 1995 and the fifty-fourth session (1416th to 1444th meetings) at the United Nations Office at Geneva from 3 to 28 July 1995.

C. Election, membership and attendance

6. At the fourteenth meeting of States parties, held at United Nations Headquarters on 8 September 1994, nine members of the Committee were elected, in accordance with articles 28 to 32 of the Covenant, to fill the vacancies resulting from the termination of some terms of office on 31 December 1994. Mr. Prafullachandra Natwarlal Baghwati, Mr. Thomas Buergenthal, Mr. Eckart Klein, Mr. David Kretzmer and Mrs. Cecilia Médina Quiroga were elected for the first time. Mr. Nisuke Ando, Mrs. Christine Chanet, Mr. Omran El Shafei and Mr. Julio Prado Vallejo were re-elected. A list of the members of the Committee appears in annex II to the present report.

7. All the members of the Committee participated in the fifty-second session. Mr. Rajsoomer Lallah attended only part of that session. Mrs. Chanet did not attend the fifty-third session. Mr. Tamás Bán and Mr. Baghwati attended only part of that session. Mrs. Rosalyn Higgins attended only part of the fifty-fourth session.

D. Solemn declaration

8. At the 1387th, 1397th and 1416th meetings of the Committee (fifty-third and fifty-fourth sessions), the members of the Committee who had been elected or re-elected at the fourteenth meeting of States parties to the Covenant made a solemn declaration in accordance with article 38 of the Covenant before assuming their functions.

E. Election of officers

9. At the 1387th and 1399th meetings of the Committee (fifty-third session), held on 20 and 28 March 1995, the Committee elected its officers for a term of two years, in accordance with article 39, paragraph 1, of the Covenant: they are listed in annex II.

10. The Committee expressed its sincerest appreciation to Mr. Nisuke Ando, the outgoing Chairman, for the contribution which he had made to the success of the Committee's work by presiding over it so competently.

F. Working groups

11. In accordance with rules 62 and 89 of its rules of procedure, the Committee established working groups which were to meet before its fifty-second, fifty-third and fifty-fourth sessions.

12. The working group established under rule 89 was entrusted with the task of making recommendations to the Committee regarding communications received under the Optional Protocol. At the fifty-second session, the working group was composed of Mr. Bán and Mr. El Shafei, Ms. Elizabeth Evatt, Mr. Andreas V. Mavrommatis and Mr. Prado Vallejo. It met at the United Nations Office at Geneva from 10 to 14 October 1994 and elected Mr. Mavrommatis as its Chairperson/Rapporteur. At the fifty-third session, the working group was composed of Mr. Ando, Mr. Laurel Francis, Mrs Higgins, Mr. Mavrommatis and Mr. Prado Vallejo. It met at United Nations Headquarters from 13 to 17 March 1995 and elected Mrs. Higgins as its Chairperson/Rapporteur. At the fifty-fourth session, the working group was composed of Mr. Baghwati, Mr. El Shafei, Mr. Mavrommatis, Mr. Fausto Pocar and Mr. Prado Vallejo. It met at the United Nations Office at Geneva from 3 to 7 July 1995 and elected Mr. Pocar as its Chairperson/Rapporteur.

13. The working group established under rule 62 was mandated to prepare concise lists of issues concerning the second, third and fourth periodic reports to be considered by the Committee at its fifty-second, fifty-third and fifty-fourth sessions. At the fifty-second session, the working group was composed of Mr. Francisco José Aguilar Urbina, Mr. Vojin Dimitrijevic, Mr. Waleed Sadi and Mr. Francis. It met at the United Nations Office at Geneva from 10 to 14 October 1994 and elected Mr. Aguilar Urbina as its Chairperson/Rapporteur. It had the task of studying the Committee's methods of work as well as a draft

general comment on issues relating to reservations made by States parties upon ratification of or accession to the Covenant or the Optional Protocols thereto or in relation to declarations made under article 41 of the Covenant. The members of the working group also held a joint meeting with the members of the working group established under the note relating to questions related to the structure of annual reports and the procedure to be followed by the Committee in response to emergency situations. At the fifty-third session, it was composed of Mr. Bán, Mr. Marco Tulio Bruni Celli, Ms. Evatt and Mr. Lallah; it met at United Nations Headquarters from 13 to 17 March 1995 and elected Mr. Bán as its Chairperson/Rapporteur. It had the task of studying a draft general comment on article 25 and of considering the Committee's methods of work. In addition, pursuant to a decision taken at the Committee's 1384th meeting (fifty-second session) (see paras. 40 and 41), the working group held a closed meeting on 13 March with representatives of specialized agencies in order to obtain advance information on reports to be considered at the fifty-third session; the meeting was attended by representatives of the International Labour Office, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the World Health Organization (WHO). At the fifty-fourth session, the working group was composed of Mr. Aguilar Urbina, Mr. Francis, Mr. Klein and Mrs. Médina Quiroga. It met at the United Nations Office at Geneva from 3 to 7 July 1995 and elected Mr. Klein as its Chairperson/Rapporteur. It had the task of studying the Committee's methods of work and of considering general comments already adopted in the past in order to determine which of them warranted updating. Pursuant to a decision taken at the 1384th meeting (fifty-second session), the working group held a meeting on 3 July with representatives of the International Labour Office, UNHCR and WHO in order to obtain advance information on reports to be considered by the Committee at its fifty-fourth session.

G. Other matters

1. Fifty-second session

14. The Assistant Secretary-General for Human Rights referred to the aim of treaty universalization, as established by the Declaration and Programme of Action adopted by the World Conference on Human Rights held at Vienna, and emphasized that the Secretary-General had addressed a request to Heads of State and Government calling for the universal ratification of the principal human rights instruments and, in particular, the Covenant and its two Optional Protocols. In his report on the work of the Organization, the Secretary-General had called for better synergy between the work of the treaty bodies and the programme of advisory services and technical assistance of the Centre for Human Rights. The members of the Committee were also informed of the work of the fifth meeting of persons chairing the human rights treaty bodies held in September 1994, as well as the recent sessions of the Committee on the Rights of the Child and the Committee on the Elimination of Racial Discrimination.

2. Fifty-third session

15. The Committee was informed by the representative of the Secretary-General of the recent activities of the General Assembly in regard to human rights, particularly its resolution 49/178 of 23 December 1994 concerning effective implementation of international instruments on human rights, in which the Assembly noted with appreciation the initiatives taken by treaty bodies in respect of urgent measures to prevent human rights violations. The Assembly

also urged them to amend their reporting guidelines so as to request gender-specific information from States parties. The recommendation of the meeting of persons chairing the human rights treaty bodies that such meetings should in future be held on an annual basis was also endorsed by the Assembly. In addition, the members were informed of developments at the fifty-first session of the Commission on Human Rights and of the activities of the Committee on Economic, Social and Cultural Rights, the Committee against Torture, the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women.

16. The United Nations High Commissioner for Human Rights stressed the importance he attached to the Committee's work and, in particular, emphasized the leading role it played in the human rights treaty system. Further efforts were, however, needed in order to publicize the results of its work more widely and bring them to the attention of the competent national authorities. At every one of his meetings with government representatives, he had systematically drawn their attention to the comments adopted by the Committee following its consideration of the reports of States parties. Although it was too early to draw any firm conclusions about that practice, he had been struck by the fact that Governments were extremely sensitive to the issues raised and had on the whole given assurances that they would take steps to apply the Committee's recommendations.

17. The High Commissioner also stressed the importance of the treaty system in the international protection of human rights, saying that an unprecedented meeting had just been held between the persons chairing human rights treaty bodies and the Secretary-General. That meeting, which the High Commissioner had made a point of attending in person, had been the result of an initiative taken at the most recent meeting of the persons chairing such bodies in September 1994. Among the subjects discussed had been the action taken by the different committees to prevent human rights violations, such as early warning measures and urgent procedures.

18. The Committee also had an exchange of correspondence with the Federal Republic of Yugoslavia (Serbia and Montenegro) concerning the submission of reports in conformity with the Covenant (see paras. 53 and 54 and annex VIII to the present report).

H. Staff resources

19. The greater complexity and more intensive pace of the Committee's operations, resulting from the increased number of States parties to the Covenant as well as from qualitative changes in the Committee's methods of work, have added significantly to the workload of the Secretariat in providing substantive servicing to the Committee in relation to the monitoring of States parties' reports. The number of communications submitted to the Committee under the Optional Protocol has also grown (see chap. VIII). The Committee noted that under the terms of article 36 of the Covenant the Secretary-General of the United Nations was to provide the necessary staff and facilities for the effective performance of the functions of the Committee under the Covenant. It accordingly requested the Secretary-General to take the necessary steps to ensure a substantial increase in the specialized staff assigned to service the Committee in relation both to the monitoring of States parties' reports and to consideration of communications submitted under the Optional Protocol.

I. Publicity for the work of the Committee

20. The Chairman gave press conferences at each of the Committee's three sessions. The Committee expressed the wish that the information services should be associated more closely with its work so as to give it greater publicity. The Committee noted with appreciation the great interest in its work taken by the non-governmental organizations and thanked them for the information provided.

J. Publications relating to the work of the Committee

21. The Committee noted that the Official Documents (Yearbooks) of the Human Rights Committee had been published until 1991. Given the resources on hand, the Committee said that publication of the Official Documents (Yearbooks) should be expedited in order to liquidate the backlog and eliminate the delay in issuing the French version.

22. The Committee once again urged that the work be speeded up for the purpose of publishing volume III of the selection of decisions taken under the Optional Protocol so as to reduce the backlog as soon as possible. In future, the selected decisions should be issued in a regular and timely fashion.

23. The Committee also insisted on the need for its annual report together with its annexes to be submitted to the General Assembly on time.

24. The Committee wishes to draw attention to the fact that it was deprived of summary records at its forty-ninth session for financial reasons, but that the Secretariat undertook to produce them from the recorded tapes, in English only.[1] That has not yet been done, and the Committee therefore wishes to reiterate its request.

K. Facilities

25. The Committee expressed a wish for additional facilities to be made available during its sessions. It would like to have a room in which members could receive delegations, meet in informal groups, or work between meetings. In due course, all the documentation members of the Committee might need in preparing their work could be kept in the room in question, which could be used by other treaty bodies (see decision along those lines adopted at the most recent meeting of persons chairing human rights treaty bodies in September 1994 (see A/49/537, annex)).

L. Future meetings of the Committee

26. At its fifty-third session, the Committee confirmed the following schedule of meetings for 1996-1997: the fifty-sixth session will be held at United Nations Headquarters from 18 March to 5 April 1996, the fifty-seventh session at the United Nations Office at Geneva from 8 to 26 July 1996, the fifty-eighth session at the United Nations Office at Geneva from 21 October to 8 November 1996, the fifty-ninth session at United Nations Headquarters from 24 March to 11 April 1997, the sixtieth session at the United Nations Office at Geneva from 14 July to 1 August 1997 and the sixty-first session at the United Nations Office at Geneva from 20 October to

7 November 1997. In each case, the working groups of the Committee will meet during the week preceding the session.

M. Adoption of the report

27. At its 1443rd and 1444th meetings, on 27 and 28 July 1995, the Committee considered the draft of its nineteenth annual report, covering its activities at the fifty-second, fifty-third and fifty-fourth sessions, held in 1994 and 1995. The report, as amended in the course of the discussion, was adopted unanimously.

II. ACTION BY THE GENERAL ASSEMBLY AT ITS FORTY-NINTH SESSION AND BY THE COMMISSION ON HUMAN RIGHTS AT ITS FIFTY-FIRST SESSION

28. At its 1415th meeting, on 7 April 1995, the Committee considered the agenda item in the light of the relevant summary records of the Third Committee, General Assembly resolution 49/178, Commission on Human Rights resolutions 1995/18 and 1995/22 of 24 February 1995 and Commission on Human Rights decision 1995/110 of 3 March 1995.

29. The Committee noted that, in accordance with General Assembly resolution 45/175 of 18 December 1990, substantive resolutions on the human rights treaty bodies should be adopted every two years (in uneven years) and that, consequently, at its forty-ninth session, the Third Committee had limited itself to taking note of its report.

30. With reference to the discussion in the General Assembly relating to the effective implementation of international instruments on human rights, including reporting obligations under those instruments, and the effective functioning of the treaty bodies, the Committee noted with satisfaction that the Assembly had once again stressed the importance of compliance by States parties with their reporting obligations. The Committee took note of the importance attached by the Assembly to the final comments on the reports considered by the human rights treaty-monitoring bodies. The Committee noted that the conclusions and recommendations of the 5th meeting of persons chairing the human rights treaty bodies had been endorsed by the General Assembly, particularly the recommendation that their meetings should be held annually.

31. The Committee discussed the relevant resolutions adopted by the Commission on Human Rights at its fifty-first session. It wholeheartedly endorsed the resolution on succession of States in respect of international human rights treaties as well as that on the Covenants, in particular the recommendation that countries having difficulties in introducing changes in their legislation that might be necessary for the ratification of international instruments on human rights should be encouraged to request appropriate support from the Centre for Human Rights on advisory services and technical cooperation programmes, as well as the recommendation stressing the importance for States parties to observe the agreed conditions and procedure for derogation under article 4 of the International Covenant on Civil and Political Rights. The Committee noted with satisfaction the Commission's request that the recent periodic reports of States parties to the human rights treaty-monitoring bodies, the summary records of Committee discussions pertaining to them, and concluding observations and final comments of the treaty bodies should be made available to the United Nations information centres.

32. The Committee considered Commission on Human Rights decision 1995/110 on the right to a fair trial and noted that, as recommended by the Subcommission on Prevention of Discrimination and Protection of Minorities in its resolution 1994/35 of 26 August 1994, the Commission was considering the establishment of an open-ended working group to draft a third optional protocol to the International Covenant on Civil and Political Rights aiming at guaranteeing under all circumstances the right to a fair trial and to a remedy. In that regard, the Committee recalled that it had submitted its own recommendations to the Subcommission on Prevention of Discrimination and Protection of Minorities. In those recommendations, adopted at its 1314th meeting (fiftieth session), on 6 April 1994,[2] the Committee had concluded

that it was inadvisable to pursue the elaboration of a draft optional protocol to the Covenant with the aim of adding article 9, paragraphs 3 and 4, as well as article 14 to the list of non-derogable rights enumerated in article 4, paragraph 2, of the Covenant.

33. The Committee again noted that the purpose of the possible third optional protocol was to add article 9, paragraphs 3 and 4, and article 14 to the list of non-derogable provisions in article 4, paragraph 2, of the Covenant. Based on its experience derived from the consideration of States parties' reports submitted under article 40 of the Covenant, the Committee wishes to point out that, with respect to article 9, paragraphs 3 and 4, the issue of remedies available to individuals during states of emergency has often been discussed. The Committee is satisfied that States parties generally understand that the right to habeas corpus and amparo should not be limited in situations of emergency. Furthermore, the Committee is of the view that the remedies provided in article 9, paragraphs 3 and 4, read in conjunction with article 2, are inherent in the Covenant as a whole. Having this in mind, the Committee believes that there is a considerable risk that the proposed draft third optional protocol might implicitly invite States parties to feel free to derogate from the provisions of article 9 of the Covenant during states of emergency if they do not ratify the proposed optional protocol. Thus, the protocol might have the undesirable effect of diminishing the protection of detained persons during states of emergency.

34. The Committee is also of the view that it would simply not be feasible to expect that all provisions of article 14 can remain fully in force in any kind of emergency. Thus, the inclusion of article 14 as such in the list of non-derogable provisions would not be appropriate.

III. METHODS OF WORK OF THE COMMITTEE UNDER APTICLE 40 OF THE COVENANT: OVERVIEW OF PRESENT WORKING METHODS

35. This section of the Committee's report aims at providing a concise and up-to-date overview of the modifications recently introduced by the Committee in its working methods under article 40 of the Covenant and is particularly designed to make the current procedure more transparent and readily accessible to all, so as to assist States parties and others interested in the implementation of the Covenant. A detailed account of the methods of work usually applied by the Committee for the consideration of reports submitted by States parties appears in the Committee's last annual report.[1]

A. The Committee's procedures in dealing with emergency situations and in cases of reports that have been overdue for a very long period

36. Since April 1991 (forty-first session), and in the light of recent or current events indicating that the enjoyment of human rights protected under the Covenant has been seriously affected in certain States parties, the Committee has resorted to the practice of requesting the States parties concerned to submit urgently reports on the situation (generally within three months). Such decisions have been taken regarding, in chronological order, Iraq (11 April 1991), the Federal Republic of Yugoslavia (4 November 1991), Peru (10 April 1992), Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) (6 October 1992), Angola and Burundi (29 October 1993), Haiti and Rwanda (27 October 1994).

37. The situation regarding overdue reports has grown worse over the years, seriously jeopardizing the attainment of the objectives of the Covenant and hampering the ability of the Committee to monitor the implementation of the Covenant in the States parties concerned. As at 28 July 1995, a total of 106 reports (27 initial, 21 second periodic, 37 third periodic and 21 fourth periodic reports), involving a total of 85 States parties, were outstanding.

38. In view of the foregoing, the Committee decided at its fifty-second session that in future States parties that had not replied favourably to a special request or to a decision by the Committee and whose reports were overdue by five years or more should be sent a strongly worded note verbale requesting them to submit their reports as soon as possible. Such notes verbales were sent for the first time on 12 December 1994.

39. At the same session, the Committee also decided that, where the consideration of a report revealed a grave human rights situation, the Committee could request the State party concerned to receive a mission composed of one or more of its members in order to re-establish dialogue with it, explain the situation better and formulate appropriate suggestions or recommendations.

B. Participation by specialized agencies and other United Nations organs in the Committee's work

40. At its fifty-second session, the Committee modified its working methods so as to enable the specialized agencies and other United Nations organs to take a more active part in its activities. The Committee accordingly decided that a meeting would be scheduled at the beginning of each session of the pre-sessional

working group so that it might suitably receive oral information provided by those organizations. Such oral information should thus relate to the reports to be considered during the Committee's session and, if need be, supplement the written information already provided.

41. Consequently, starting with the fifty-third session, the Working Group on Article 40 devoted a meeting to listening to such statements by specialized agencies and other United Nations organs concerning the reports to be considered during the plenary session. The Committee was highly appreciative both of the wealth of the oral or written information received and of the level of representation of the specialized agencies or other United Nations organs participating in such exchanges of views, in particular the International Labour Office and UNHCR.

42. On the basis of this experience and noting that the special rapporteurs or representatives and the working groups of the Commission on Human Rights were tending to make increasingly frequent reference to its comments, the Committee, at its fifty-third session, expressed the wish that they should also be allowed as far as possible to avail themselves of the procedure described in the previous paragraph. It therefore decided that, whenever possible, the special rapporteurs or representatives and representatives of working groups of the Commission on Human Rights that had drafted country reports or thematic reports would be invited to attend the aforementioned meeting of the Working Group on Article 40.

C. Equality and human rights of women

43. The Committee took note of the various recommendations made by the World Conference on Human Rights concerning the integration of a component regarding equality of status and human rights of women in the activities of the human rights treaty bodies (principles 36 to 42 of the Declaration of the Vienna Programme of Action).[4] The Committee stressed in that connection that the lists of issues to be dealt with during the Committee's consideration of States' reports submitted under article 40 of the Covenant systematically included practical matters concerning equality of status and the human rights of women. Furthermore, general comment No. 4 (13) was devoted to matters concerning measures to be taken to give effect to article 3 of the Covenant, while general comment No. 18 (37) covered all the provisions against discrimination under articles 2, 3 and 26 of the Covenant. The Committee is envisaging the possibility of supplementing these two texts by a specific general comment.

44. At its fifty-third session, the Committee decided to amend paragraph 4 (c) of the Committee's guidelines concerning the initial reports submitted by States parties as follows:

> "4. The part of the report relating specifically to parts I, II and III of the Covenant should describe in relation to the provisions of each article:
>
> "...
>
> "(c) Any other factors or difficulties affecting the enjoyment of the right by persons within the jurisdiction of the States, including any factors affecting the equal enjoyment by women of that right".

45. Paragraph 6 (e) of the Committee's guidelines for periodic reports is amended accordingly. The guidelines as amended are reproduced in annex VII to the present report.

IV. SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

46. Under article 2, paragraph 1, of the International Covenant on Civil and Political Rights, each State party undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized and enumerated in Part III of the Covenant. In connection with this provision, article 40, paragraph 1, of the Covenant requires States parties to submit reports on the measures adopted and the progress achieved in the enjoyment of the various rights, and on any factors and difficulties that may affect the implementation of the Covenant. States parties undertake to submit reports within one year of the entry into force of the Covenant for the States parties concerned and thereafter whenever the Committee so requests. In order to assist States parties in submitting reports, the Human Rights Committee approved, at its second session, general guidelines regarding the form and contents of initial reports (see annex VII).

47. Furthermore, in accordance with article 40, paragraph 1 (b), of the Covenant, the Committee adopted a decision on periodicity at its thirteenth session requiring States parties to submit subsequent reports to the Committee every five years.[5] At the same session, the Committee adopted guidelines regarding the form and contents of periodic reports from States parties under article 40, paragraph 1 (b), of the Covenant (see annex VII).

48. At its thirty-ninth session, the Committee adopted an amendment to its guidelines for the submission of initial and periodic reports relating to reporting by States parties on action taken in response to the issuance by the Committee of views under the Optional Protocol.[6] At its forty-second session, the Committee revised its general guidelines for the submission of initial and periodic reports to take into account the consolidated guidelines for the initial part of the reports of States parties to be submitted under the various international human rights instruments, including the Covenant (HRI/CORE/1).[7] In addition, at its fifty-third session, the Committee further amended its guidelines with a request to States to include in their reports information on any factors affecting the equal enjoyment by women of the rights protected under the Covenant (see para. 44 and annex VII).

A. Reports submitted by States parties under article 40 of the Covenant during the period under review

49. During the period covered by the present report, the Committee received 16 initial or periodic reports, representing a significant increase by comparison with previous years. Initial reports were submitted by Brazil, Estonia, Guatemala, Latvia, Switzerland and Zambia; Cyprus, Denmark, Iceland, Mauritius, the Netherlands and Peru submitted their third periodic reports; and Belarus, the Russian Federation, Sweden and the United Kingdom of Great Britain and Northern Ireland submitted their fourth periodic reports.

50. The Committee noted that the reports submitted by States parties under article 40 of the Covenant increasingly reproduced the texts of legislation in extenso, which made the reports extremely bulky. The Committee noted that the States concerned adopted this practice with the clear intention of complying with the Committee's guidelines on initial reports (CCPR/C/5/Rev.2), which refer, inter alia to a description of the legislative, administrative or other measures in force relating to each right. The Committee nevertheless considers

that States should include only necessary information in their reports, and in particular avoid simply paraphrasing the law without describing its practical application; this would obviate the huge increase in the volume of information furnished to the Committee, and consequently the growing constraints faced by the Secretariat in translating and reproducing documents as well as the inevitable delays occasioned in the consideration of reports.

51. The Committee received a communication from the Government of Mexico, dated 18 July 1994, regarding the consideration of its third periodic report by the Committee in March 1994 (fiftieth session).* The communication included replies to certain oral questions to which the delegation had been unable to reply during the consideration of that report, as well as comments on the observations of the Committee contained in document CCPR/C/79/Add.32. The Government's communication is reproduced in document CCPR/C/108.

52. The Committee also received a communication dated 27 July 1995 from the Government of Latvia concerning consideration of its initial report (see paras. 334-361). It contained replies to certain oral questions which the delegation could not answer when its report was considered. In addition, in a communication of the same date, the Government of Ukraine made a number of observations about the Committee's final comments reproduced in paragraphs 305-333 below. The Government's communication appears in document CCPR/C/109.

53. In a letter dated 26 January 1995 addressed to the Chairman of the Committee, the Permanent Representative of the Federal Republic of Yugoslavia to the United Nations Office at Geneva stated, inter alia, that in view of the fact that the rights of Yugoslavia under the Covenant, particularly the right to equitable participation in the meetings of States parties, had been denied, its Government would only submit its fourth periodic report to the Committee when the Federal Republic of Yugoslavia was treated as an equal party to the Covenant.

54. In his reply on behalf of the Committee, on 13 July 1995, the Chairman underlined that the submission of reports under the Covenant constituted a solemn legal obligation assumed by each State party and was indispensable for carrying out the Committee's basic function of establishing a positive dialogue with States parties in the field of human rights. Therefore, non-submission of reports greatly hindered the process of dialogue and seriously undermined the objectives of the Covenant by hampering the Committee's ability to monitor the implementation of the Covenant. He further recalled that in an earlier decision the Committee had emphasized that all the people within the territory of the former Yugoslavia were entitled to the guarantees of the Covenant and that the Federal Republic of Yugoslavia was bound by the obligations under the Covenant. While it was not for the Committee to take a position on the action of the meeting of States parties with regard to the Federal Republic of Yugoslavia (Serbia and Montenegro), the Committee would continue to proceed on the basis of that understanding and expressed the hope that the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) would reconsider its decision and submit its report to the Committee as soon as possible (the contents of the letter are reproduced in annex VIII to the present report).

B. Special decisions by the Human Rights Committee concerning reports of particular States

55. In view of the special difficulties encountered by Haiti and Rwanda in the implementation of the Covenant, the Committee adopted, at its 1374th meeting (fifty-second session), on 27 October 1994, the following special decisions:

"Haiti

"The Human Rights Committee,

"Deeply concerned at the difficulties encountered by Haiti in regard to protection of the human rights set forth in the International Covenant on Civil and Political Rights,

"Acting under article 40, paragraph 1 (b) of the Covenant,

"1. Decides to request the Government of Haiti to submit its initial report without delay for discussion by the Committee at its fifty-third session, to be held from 20 March to 7 April 1995, and, in any event, to submit not later than 31 January 1995 a report, in summary form if necessary, relating in particular to the application of articles 6, 7, 9, 10 and 14 of the Covenant;

"2. Requests the Secretary-General to bring this decision to the attention of the Government of Haiti."

"Rwanda

"The Human Rights Committee,

"Deeply concerned at the difficulties encountered by Rwanda in regard to protection of the human rights set forth in the International Covenant on Civil and Political Rights,

"Acting under article 40, paragraph 1 (b) of the Covenant,

"1. Decides to request the Government of Rwanda to submit its third periodic report without delay for discussion by the Committee at its fifty-third session, to be held from 20 March to 7 April 1995, and, in any event, to submit not later than 31 January 1995 a report, in summary form if necessary, relating in particular to the application during the present period of articles 6, 7, 9, 10, 14 and 27 of the Covenant;

"2. Requests the Secretary-General to bring this decision to the attention of the Government of Rwanda."

C. Reports submitted by States parties in accordance with a special decision of the Human Rights Committee

56. Burundi submitted a special report pursuant to a decision to that effect adopted by the Committee on 29 October 1993 at its forty-ninth session.[9] Haiti submitted a special report, which was considered at the Committee's fifty-third session (see paras. 55 and 224-241).

V. STATES THAT HAVE NOT COMPLIED WITH THEIR OBLIGATIONS UNDER ARTICLE 40

57. States parties to the Covenant must submit the reports referred to in article 40 of the Covenant on time so that the Committee can duly perform its functions under that article. These reports are the basis of the dialogue between the Committee and States parties, and any delay in their submission means an interruption of this process. However, serious delays have been noted since the establishment of the Committee. During the period covered by the present report, the Committee took various measures to induce States parties effectively to carry out their reporting obligation under article 40 of the Covenant. Reminders were sent on 12 December 1994 and 29 June 1995 to States parties whose reports had not been submitted as scheduled. In addition, at the session of March/April 1995, the members of the Bureau met in New York with the Permanent Representatives of all States parties whose initial report, periodic report or report under a special decision of the Committee had been overdue for more than four years. Such contacts were made with the Permanent Representatives of all the States concerned with the exception of Angola, the Gambia and the Democratic People's Republic of Korea.

58. After reviewing the situation with respect to the late submission both of initial and periodic reports, the Committee noted with regret that 85 States parties to the Covenant, or more than two thirds of all States parties, were in arrears with their reports. The Committee again considered itself duty-bound to express its serious concern about the fact that so many States parties are in default of their obligations under the Covenant. This state of affairs seriously impedes the Committee's ability to monitor the implementation of the Covenant, and it therefore decided to list in the core of its annual report to the General Assembly, as it had already done in its previous annual report, the States parties that have more than one report overdue. The Committee wishes to reiterate that these States are in serious default of their obligations under article 40 of the Covenant.

State party	Type of report	Date due	Years overdue	Number of reminders sent
Gabon	Initial Second Third	20 April 1984 20 April 1989 20 April 1994	11	23 12 3
Syrian Arab Republic	Second Third	18 August 1984 18 August 1989	11	23 12
Gambia	Second Third	21 June 1985 21 June 1990	10	21 10
Lebanon	Second Third Fourth	21 March 1986 21 March 1988 21 March 1993	9	20 15 3
Suriname	Second Third	2 August 1985 2 August 1990	10	20 10
Kenya	Second Third	11 April 1986 11 April 1991	9	19 9
Mali	Second Third	11 April 1986 11 April 1991	9	19 9
Jamaica	Second Third	1 August 1986 1 August 1991	9	15 8
Guyana	Second Third	10 April 1987 10 April 1992	8	17 7
Democratic People's Republic of Korea	Second Third	13 December 1987 13 December 1992	8	15 5
Equatorial Guinea	Initial Second	24 December 1988 24 December 1993	7	13 3
Central African Republic	Second Third	9 April 1989 7 August 1992	6	12 6
Congo	Second Third	4 January 1990 4 January 1995	5	11 1
Trinidad and Tobago	Third Fourth	20 March 1990 20 March 1995	5	11 1
Saint Vincent and the Grenadines	Second Third	31 October 1991 8 February 1993	4	8 5
Panama	Third Fourth	31 March 1992 6 June 1993	3	7 4
Madagascar	Third Fourth	31 July 1992 3 August 1993	3	6 4
Angola	Special	31 January 1994	1	2
Rwanda	Special	31 January 1995	-	1

VI. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

59. At its 1314th meeting (fiftieth session), the Committee decided to discontinue its practice of including in its annual report summaries of the consideration of the reports submitted by States parties under article 40 of the Covenant. In accordance with that decision, the annual report shall contain, inter alia, the final comments adopted by the Committee at the end of the consideration of States parties' reports. Accordingly, the following paragraphs, arranged on a country-by-country basis in the sequence followed by the Committee in its consideration of the reports, contained the final comments adopted by the Committee with respect to the States parties' reports considered at its forty-ninth, fiftieth and fifty-first sessions.

A. Nepal

60. The Committee considered the initial report of Nepal (CCPR/C/74/Add.2) at its 1359th and 1363rd meetings, on 17 and 19 October 1994, and adopted[1] the following final comments:

1. Introduction

61. The Committee welcomes the initial report (CCPR/C/74/Add.2) and the core document (HRI/CORE/1/Add.42) of Nepal and expresses its appreciation to the State party for the opening of a constructive dialogue. The Committee regrets, however, that the information provided in the report was in many respects incomplete and did not follow the Committee's guidelines regarding the form and contents of initial reports (CCPR/C/5/Rev.1). The lack of information on factors and difficulties impeding the implementation of the Covenant prevented the Committee from gaining a clear idea of the real human rights situation in the country.

62. The Committee expresses its appreciation to the State party for taking part in the dialogue and for responding to the questions raised by members of the Committee. The valuable information provided orally supplemented to a certain extent the report, thereby providing a sound basis for a frank and fruitful dialogue between the Committee and the State party. It, however, regrets that the delegation could not include representatives of the various ministries concerned with the implementation of the Covenant, in particular of the Ministry of Justice.

2. Factors and difficulties affecting the implementation of the Covenant

63. The Committee recognizes that Nepal is emerging from a long period of isolation, and that the remnants of authoritarian rule have not yet been overcome. Steps remain to be taken in engaging, consolidating and developing democratic institutions for better implementation of the Covenant. Economic depression, extreme poverty and widespread illiteracy constitute obstacles to the effective implementation of the Covenant.

3. Positive aspects

64. The Committee welcomes the efforts undertaken by the State party to establish democratic institutions and multipartism as well as its declared commitment to the rule of law and the independence of the judiciary. It takes note, in particular, of the adoption of a new Constitution that provides the basis for a parliamentary system of government based on multi-party democracy as well as for an independent Supreme Court. The right of citizens to petition the Supreme Court to challenge laws which violate human rights and the use of this right is particularly welcomed. The Committee also notes with satisfaction that Nepal has recently acceded to a number of international human rights instruments, including the First Optional Protocol to the Covenant.

4. Principal subjects of concern

65. The Committee notes that the status of the Covenant within the legal system is unclear and that the necessary steps to adopt legislative and other measures to give effect to the rights recognized in the Covenant have not yet been taken. Furthermore, a significant gap exists between provisions of the Constitution and other legal norms, on the one hand, and their application in practice, on the other. Accordingly, there is a need to define clearly the place of the Covenant within the Nepalese legal system to ensure that domestic laws are applied in conformity with the provisions of the Covenant and that the latter can be invoked before the courts and applied by the other authorities concerned. The lack of publicity given to the provisions of the Covenant and the Optional Protocol is also a matter of concern. Since provisions of the Constitution seem to provide rights and freedoms to citizens only, the Committee draws the State party's attention to its obligations to ensure to all individuals within its jurisdiction the rights and freedoms recognized in the Covenant.

66. The Committee notes that the non-discrimination clauses in article 11 of the Constitution do not cover all the grounds provided for in articles 2 and 26 of the Covenant. It is particularly disturbed by the fact that the principle of non-discrimination and equality of rights suffers serious violations in practice and deplores inadequacies in the implementation of the prohibition of the system of castes. The persistence of practices of debt bondage, trafficking in women, child labour, and imprisonment on the ground of inability to fulfil a contractual liability constitute clear violations of several provisions of the Covenant.

67. The Committee expresses its concern about the situation of women who, despite some advances, continue to be de jure or de facto the object of discrimination as regards marriage, inheritance, transmission of citizenship to children, divorce, education, protection against violence, criminal justice and wages. The Committee is also concerned that the average life expectancy of women is shorter than that of men. It regrets the high proportion of women prisoners sentenced for offences resulting from unwanted pregnancies.

68. The Committee deplores the lack of clarity of the legal provisions governing the introduction and administration of a state of emergency, particularly article 115 of the Constitution, which would permit derogations contravening the State party's obligations under article 4, paragraph 2, of the Covenant.

69. The Committee is deeply concerned about the cases of summary and arbitrary executions, enforced or involuntary disappearances, torture and arbitrary or

unlawful detention committed by members of the army, security or other forces during the period under review that have been brought to its attention. It deplores that those violations were not followed by proper inquiries or investigations, that the perpetrators of such acts were neither brought to justice nor punished and that the victims or their families were not compensated. It regrets that the draft laws against torture and ill-treatment of the person and on the compensation of victims of torture have not yet been adopted. Moreover, the quasi-judicial authority of the Chief District Officer and the insufficient protection of the independence of the judiciary undermine the efforts aimed at preventing the recurrence of such acts.

70. The Committee notes with concern the excessive restrictions on the right to freedom of expression and information and the restrictions that apply to the manifestation of religion and to change of religion.

5. Suggestions and recommendations

71. The Committee recommends that the legislative reforms presently under way in Nepal be expanded and intensified in order to ensure that all relevant legislation is in conformity with the Covenant. It emphasizes the need for the provisions of the Covenant to be fully incorporated into domestic law and made enforceable by domestic courts. The necessary steps should be taken to give effect to the rights recognized in the Covenant. The text of the Covenant and the First Optional Protocol should be translated into all languages spoken in Nepal, widely publicized and included in school curricula, to ensure that the provisions of these instruments are widely known to members of the legal profession, the judiciary and law enforcement officials, as well as to the general public. The legal profession and non-governmental organizations should be encouraged to contribute to the process of reform.

72. The Committee stresses the need to take appropriate action in order to ensure the effective application of articles 2 and 3 of the Covenant, particularly through the adoption of administrative and educational measures designed to eliminate traditional practices and customs detrimental to the well-being and status of women and vulnerable groups of Nepalese society.

73. The Committee recommends that appropriate information be gathered and educational measures be taken to eradicate practices of debt bondage, trafficking in women and child labour. Prison reforms now envisaged should be accelerated.

74. The Committee recommends that the authorities adopt legislation to bring its domestic legal regime into harmony with its obligations under article 4, paragraph 2, of the Covenant.

75. The Committee urges the Government of Nepal to take all necessary measures to prevent extrajudicial and summary executions, enforced or involuntary disappearances, torture and degrading treatment and illegal or arbitrary detention. The Committee recommends that all such cases be systematically investigated in order to bring those suspected of having committed such acts before the courts and that the victims be compensated.

76. The Committee recommends that Nepal study measures directed towards the abolition of the death penalty, and give consideration to accession to the Second Optional Protocol.

77. The Committee also recommends that the necessary measures be taken by the Government to give effect to the separation of executive and judicial functions and to ensure the full independence and proper functioning of the judiciary. The texts of the draft laws against torture and ill-treatment of the person as well as on compensation of victims of torture should be brought into line with the provisions of the Covenant and adopted as soon as possible. Specifically targeted training courses on human rights for law enforcement officials, members of the judiciary and members of the police and security forces should be organized.

78. The Committee calls upon the State party to prepare its second periodic report in compliance with the Committee's guidelines regarding the form and contents of State party reports (CCPR/20/Rev.1). The report should, in particular, include detailed information on the specific laws applicable to each right protected under the Covenant and the extent to which each right is enjoyed in practice, and refer to specific factors and difficulties that might impede its application. In undertaking this obligation, the State party may avail itself of the Advisory Services and Technical Assistance Programmes of the Centre for Human Rights.

B. Tunisia

79. The Committee considered the fourth periodic report of Tunisia (CCPR/C/84/Add.1) at its 1360th to 1362nd meetings, on 18 and 19 October 1994, and adopted[10] the following comments:

1. Introduction

80. The Committee welcomes the timely submission of the fourth periodic report of Tunisia and appreciates the promptness with which the State party continues to meet its reporting obligations under the Covenant. The report contains useful and detailed information on measures taken by the Government, particularly with regard to legislative reform and institutional developments affecting the application of the Covenant. However, the Committee notes that the report does not contain sufficient information on factors and difficulties encountered in the implementation of the Covenant.

81. The Committee also welcomes the presence, during the examination of the report, of a high-level and competent delegation of experts knowledgeable in the implementation of the Covenant in Tunisia. The delegation provided much useful and updated information which facilitated a constructive dialogue with the State party.

2. Factors and difficulties affecting the implementation of the Covenant

82. The Committee is aware that Tunisia is in a period of economic, political and social transition and that it has to face the challenge of extremist movements.

3. Positive aspects

83. The Committee notes with satisfaction the attempt to build a comprehensive constitutional and legal framework for the promotion and protection of human rights. The Committee welcomes recent progress in enhancing and strengthening that framework, notably the establishment of a number of human rights posts, offices and units within the executive branch with a view to ensuring greater conformity of Tunisian law and practice with the Covenant and other international human rights instruments.

84. The Committee also notes with satisfaction recent legislative reforms aimed at bringing Tunisian law into closer harmony with the requirements of the Covenant. In this connection, the Committee welcomes changes in the Penal Code, which have reduced the duration of preventive detention and strengthened sanctions in cases of family violence directed against women. The Committee also welcomes recent reforms in the Personal Status Code and other laws aiming to guarantee and reinforce the equal rights of women in a number of areas, including divorce, custody and maintenance, and to strengthen the protection of women against violence.

4. Principal subjects of concern

85. The Committee cannot conceal its disappointment with the deterioration in the protection of human rights in Tunisia in the period under review. It is concerned, in particular, about the growing gap between law and actual practice with regard to guarantees and safeguards for the protection of human rights. Although there is now in place an impressive array of State organs for the promotion and protection of human rights at various levels, the Committee notes that they have been concentrated exclusively within the executive branch of the Government. Consequently, it is not clear whether there are sufficiently independent mechanisms within the public administration and the judiciary to effectively monitor and enforce the implementation of existing human rights standards, including the investigation of abuses.

86. The Committee is particularly concerned about continuing reports of the abuse, ill-treatment and torture of detainees, including deaths in custody under suspicious circumstances. In this connection, it appears that Tunisian regulations are not strictly adhered to with respect to the prompt registration of persons arrested, the immediate notification of family members, the limitation of pre-trial detention to the 10-day maximum, the requirement of medical examinations whenever allegations of torture or other abuse are made and the carrying out of autopsies in all cases of death in custody. It is also not clear whether these and other requirements are being systematically monitored or whether investigations are automatically undertaken in all cases where there are either allegations or suspicious circumstances indicating that torture may have taken place. The Committee is also concerned that present laws are overly protective of government officials, particularly those concerned with security matters; it is particularly concerned that those government officials who have been found guilty of wrong-doing remain anonymous to the general public, becoming immune from effective scrutiny.

87. The Committee is concerned about the independence of the judiciary. It is also concerned by the reports on harassment of lawyers who have represented clients accused of having committed political offences and of the wives and families of suspects. With respect to article 6 of the Covenant, the Committee

is concerned about the large number of crimes in Tunisia for which the death penalty may be imposed.

88. The Committee regrets that, despite the significant progress that has been achieved regarding the equal rights of women, there remain a number of outdated legal provisions that are contrary to the Covenant. Those provisions concern the status of married women and their equal rights in matters of child custody, the transmission of nationality and parental consent for the marriage of minor children. The Committee is also concerned about legal discrimination against non-Muslims with respect to eligibility for public office.

89. The Committee is concerned that dissent and criticism of the Government are not fully tolerated in Tunisia and that, as a result, a number of fundamental freedoms guaranteed by the Covenant are not fully enjoyed in practice. In particular, it regrets the ban on the publication of certain foreign newspapers. The Committee is concerned that those sections of the Press Code dealing with defamation, insult and false information unduly limit the exercise of freedom of opinion and expression as provided for under article 19 of the Covenant. In this connection, the Committee is concerned that those offences carry particularly severe penalties when criticism is directed against official bodies as well as the army or the administration, a situation which inevitably results in self-censorship by the media when reporting on public affairs. The Committee also notes with concern that it is not clear how procedures ensure independent review on the merits, including judicial appeal, in cases where those provisions of the Press Code have been invoked.

90. The Committee is concerned that the Associations Act may seriously undermine the enjoyment of the freedom of association under article 22, particularly with respect to the independence of human rights non-governmental organizations. In this connection, the Committee notes that the Act has already had an adverse impact on the Tunisian League for Human Rights. The Committee believes that the Political Parties Act and the conditions imposed on the activities of political parties are not in conformity with articles 22 and 25 of the Covenant. The Committee is also concerned that, under the Passport Act, the grounds for refusing a passport are not clearly specified by law in a way that complies with article 12 of the Covenant, leaving open the possibility of refusal on political or other unacceptable grounds.

91. The Committee is concerned that, while generally there is a well-protected freedom to practise and manifest one's religion, this right is not made available in respect of all beliefs.

5. Suggestions and recommendations

92. The Committee recommends that steps be taken to strengthen the independence of human rights institutions in Tunisia and thereby close the gap between law and practice and enhance the confidence of the public in those institutions. The Committee emphasizes that the work of the "médiateur administratif", the Presidential Human Rights Commissioner and any commission investigating reports of human rights abuses should be transparent and the results should be made public. The Committee notes that a better balance is needed between State and private institutions concerned with human rights and, in that connection, suggests that steps be taken to provide more encouragement to human rights non-governmental organizations in Tunisia. The Committee also recommends that steps be taken to strengthen the independence of the judiciary, particularly from the executive branch.

93. The Committee strongly recommends that the State party consider ratifying or acceding to the First Optional Protocol to the International Covenant on Civil and Political Rights. Acceptance of the First Optional Protocol would strengthen the capacity of the Government with respect to inquiries into allegations of human rights abuses and also in regard to further elaborating jurisprudence relating to human rights matters.

94. With respect to reports of torture and abuse of detainees, the Committee strongly recommends closer monitoring of the arrest and detention process; systematic, prompt and open investigation into allegations; prosecution and punishment of offenders; and the provision of legal remedies for victims. There should be strict enforcement of registration procedures, including prompt notification of family members of persons taken into custody, and the 10-day limit to preventive detention. Steps should also be taken to ensure that medical examinations are automatically provided following allegations of abuse and that thorough autopsies are performed following any death in custody. In all cases where investigations are undertaken, the findings should be made public.

95. The Committee also recommends that the State party take steps to reduce the number of crimes for which the death penalty may be imposed and envisage acceding to the Second Optional Protocol to the Covenant.

96. With respect to discrimination, the Committee recommends that a further review of relevant legislation be undertaken with a view to amending the law where necessary in order to bring it into conformity with the requirements of the Covenant. Such a review should focus on the equal rights of women, particularly in regard to their parental and custodial rights and the transmission of nationality, as well as on existing legal impediments to the equal participation of non-Muslims in presidential elections.

97. The Committee recommends that measures be taken to ensure the exercise of freedom of opinion and expression in accordance with article 19 of the Covenant. In particular, there should be a review and, where appropriate, amendment of those provisions of the Press Code which unduly protect government policy and officials from criticism. Provision should also be made for independent judicial review of all sanctions imposed under the relevant act.

98. The Committee also recommends that a review be undertaken of the Associations Act, the Passport Act and the Political Parties Act to ensure that they are in full conformity with the requirements of the Covenant. With respect to freedom of religion, the Committee recommends that there be close and independent monitoring of the exercise of that right by all groups in Tunisia. The Committee emphasizes that its general comment on article 18 should be reflected in government policy and practice.

C. Morocco

99. The Committee considered the third periodic report of Morocco (CCPR/C/76/Add.3 and Add.4) at its 1364th to 1366th meetings, on 20 and 21 October 1994, and adopted[11] the following comments:

1. Introduction

100. The Committee welcomes the opportunity to resume its dialogue with the State party and thanks the Government for its report (CCPR/C/76/Add.3 and Add.4) and core document (HRI/CORE/1/Add.23). The Committee regrets, however, that although the report contained detailed information on laws and regulations giving effect to the Covenant, it did not include sufficient information about the implementation of the Covenant in practice or about factors and difficulties affecting the application of the Covenant.

101. The delegation provided valuable additional information on a number of issues not covered in the report, which enabled the Committee to obtain a better understanding of the human rights situation in Morocco. This enhanced the dialogue between the delegation and the Committee.

2. Factors and difficulties affecting the implementation of the Covenant

102. The Committee recognizes that the State party has embarked on a wide-ranging process of amending its domestic legislation to bring it into line with the Covenant. The process has not yet been completed and steps remain to be taken to harmonize the Constitution with the Covenant and develop democratic institutions and human rights machinery for better implementation of the Covenant. The remnants of certain traditions and customs constitute an obstacle to the effective implementation of the Covenant, particularly with regard to equality between men and women.

3. Positive aspects

103. The Committee recognizes that the attitude of the Government has recently changed towards a greater openness in its handling of human rights issues, including its reporting obligations under the Covenant. In the latter regard, some frank oral answers given during the consideration of the report to questions raised by members regarding issues such as disappearances, the existence of the Tazmamart detention centre, the whereabouts of persons previously detained therein and the fate of the Oufkir family were appreciated.

104. The Committee welcomes the numerous measures taken during the period under review to improve democracy and institute a legal environment more favourable to the promotion and protection of human rights. The Committee notes with satisfaction the promulgation in 1992 of an amended Constitution and the amnesty of a number of political prisoners. Compensation is being paid to certain persons illegally detained. The Committee was also glad to learn of the commutation of death sentences to life imprisonment sentences, the establishment of the Constitutional Council and the Economic and Social Council, the holding on 27 September 1993 of parliamentary elections and the holding of a national symposium on problems affecting the news, information and communication services to recommend modifications in the legislation to, inter alia, bring it into line with international human rights standards, which constitute steps to consolidate the rule of law. Some progress has been made in the promotion of the status of women and women have been elected to Parliament for the first time. The Committee also welcomes the information that measures have been taken to teach the Covenant and other international human rights instruments to members of the judiciary and the police. The freedom now given to non-governmental organizations to be active in the country is also a matter of appreciation.

4. Main subjects of concern

105. The Committee notes that the Constitution does not contain specific provisions as to the relationship between international treaties and domestic law. Accordingly, there is a need to define better the place of the Covenant within the Moroccan legal system to ensure that domestic law is applied in conformity with the provisions of the Covenant.

106. The Committee is concerned about Morocco's role with regard to the persistent problems regarding self-determination in Western Sahara.

107. The Committee regrets that, although some improvement has been achieved as regards the status of women, the State party has not yet embarked on all the necessary reforms to combat the difficulties still impeding equality between men and women. The Constitution provides for equality only in the area of political rights, and the situation of women in both public and private law continues to be de jure or de facto the object of discrimination as regards the right to leave the country, freedom to pursue commercial activities, personal status, marriage, divorce, inheritance rights, transmission of nationality, education, access to work and participation in the conduct of public affairs.

108. The Committee is concerned that the categories of crimes punishable by the death penalty include crimes in respect of which, by reference to article 6 of the Covenant, the death penalty should not be imposed.

109. Despite the amnesty of political prisoners and the destruction of certain unregistered places of detention, the Committee continues to deplore that a large number of cases of summary and arbitrary executions, enforced or involuntary disappearances, torture and arbitrary or unlawful detention committed by members of the army, including cases concerning persons previously detained in Tazmamart, have not yet been investigated. Furthermore, the perpetrators of such acts were neither brought to justice nor punished. The Committee deplores that measures of clemency adopted during the period under review were generally not extended to Western Sahara.

110. The Committee is concerned that guarantees contained in articles 9, 10 and 14 of the Covenant are not complied with. Despite some efforts to build new prisons, the Committee remains concerned about conditions of detention, particularly overcrowding of prisons, which frequently lead to malnutrition, diseases and deaths of detainees. Concern is also expressed about the long period of detention without charge under article 154 of the Code of Criminal Procedure, which appears to be incompatible with article 9 of the Covenant. The Committee is also concerned about the obstacles to the independence and impartiality of the judiciary.

111. The Committee is concerned about the full implementation of the right to freedom of movement, including in particular the restrictions still imposed on members of the Oufkir family.

112. The Committee notes with regret the shortcomings in the observance of article 18 of the Covenant, in particular the restrictions affecting the Baha'i right to profess and practise their belief and limitations on inter-religious marriage. Concern is also expressed at the impediment placed upon the freedom to change one's religion.

113. The Committee expresses concern about the extent of the limitations on the freedom of expression, assembly and association under the Dahir of 1973 and especially limitations on the right to criticize the Government. Governmental control of the media as well as the imprisonment of some journalists for having expressed criticisms give rise to serious concern.

114. The Committee is concerned that the electoral system, under which two thirds of members of the House of Representatives are elected by direct universal suffrage and one third by an electoral college, may raise issues as to the requirements, under article 25 (b) of the Covenant, that elections be held by "universal and equal suffrage". The wide scope of executive power in the hands of the King has implications for the effective independence of the judiciary and the democratic processes of Parliament.

5. Suggestions and recommendations

115. The Committee recommends that the State party consolidate the process of constitutional revision in order to ensure that all the requirements of the Covenant are reflected in the Constitution, thereby bringing the Constitution into true compliance with the Covenant and ensuring that the limitations imposed on the exercise of rights and freedoms under national legislation do not go beyond those permitted under the Covenant.

116. The Committee hopes that the Government of Morocco will give serious consideration to becoming a party to the First Optional Protocol.

117. The Committee further recommends that Morocco study measures to limit the categories of crimes punishable by the death penalty to the most serious offences, with a view to its eventual abolition.

118. The Committee emphasizes the need for the Government to prevent and eliminate discriminatory attitudes and prejudices towards women and to revise domestic legislation to bring it into conformity with articles 2, 3 and 23 of the Covenant, taking into account the recommendations contained in the Committee's general comments Nos. 4, 18 and 19. It recalls in that regard that, although several reservations were made by Morocco in acceding to the Convention on the Elimination of All Forms of Discrimination against Women, Morocco remains bound to the fullest extent by the provisions of articles 2, 3, 23 and 26 of the Covenant.

119. The Committee recommends that the Moroccan authorities ensure that summary and arbitrary executions, enforced or involuntary disappearances, torture, ill-treatment and illegal or secret detention do not occur and that any such cases be investigated in order to bring before the courts those suspected of having committed or participated in such crimes, to punish them if found guilty, and to provide compensation to victims. The Committee expresses the wish that any measures of clemency be granted on a non-discriminatory basis in conformity with articles 2 and 26 of the Covenant. It also recommends that measures of administrative detention and incommunicado detention be restricted to very limited and exceptional cases, and that the guarantees concerning pre-trial detention provided for in article 9, paragraph 3, of the Covenant be fully implemented. Further measures should also be taken to improve detention conditions and, particularly, to ensure that the United Nations Standard Minimum Rules for the Treatment of Prisoners are complied with and the relevant regulations and directives known and accessible to prisoners. Proposed measures

to strengthen the presumption of innocence should be implemented as soon as possible.

120. The Committee emphasizes the need to take further measures to guarantee the freedom of religion and to eliminate discrimination on religious grounds. It suggests in this connection that the State party take into account the recommendations contained in the general comment on article 18 of the Covenant.

121. The Committee recommends that restrictions imposed on the rights to freedom of expression, assembly and association under the Dahir of 1973 be modified and brought into line with those permitted under the Covenant to ensure their application in conformity with the Covenant on a non-arbitrary basis.

122. The Committee recommends that the authorities ensure that the third periodic report of Morocco and the comments of the Committee are disseminated as widely as possible in order to encourage the involvement of all sectors concerned in the improvement of human rights.

D. Libyan Arab Jamahiriya

123. The Committee considered the second periodic report of the Libyan Arab Jamahiriya (CCPR/C/28/Add.16) at its 1275th, 1276th, 1376th and 1377th meetings, on 26 October 1993 and 28 October 1994, and adopted[11] the following comments:

1. Introduction

124. The Committee welcomes the opportunity to renew its dialogue with the State party, as 15 years have elapsed between the consideration of the Government's initial report and the submission of its second periodic report. The Committee, however, regrets this considerable delay. It regrets also that the reporting guidelines have not been met. The report does not give sufficient information about the restrictions or limitations imposed on rights or about factors and difficulties affecting the enjoyment of rights and the implementation of the Covenant in the Libyan Arab Jamahiriya. In addition, the report lacks information about abuses affecting human rights in the country that have been acknowledged even by the head of State; and also about administrative and other measures adopted to give effect to the rights provided for in the Covenant.

125. The Committee welcomes the additional written information provided by the Libyan authorities to reply to the questions raised by the members of the Committee during the first part of the consideration of the report in October 1993, while regretting that the late submission of that information did not make it possible to have the document available in all the working languages of the Committee. The Committee takes note with satisfaction of the efforts made by the Libyan Government to reply to its questions and to clarify certain issues, both in writing and orally through the Government's representatives. Those efforts clearly indicate the willingness of the Government to continue the dialogue with the Committee.

2. Factors and difficulties affecting the implementation of the Covenant

126. Among the factors affecting the implementation of the Covenant, the Committee notes economic difficulties and the existence of extremist movements. The Committee also notes that the embargo on air travel, imposed by the Security Council on the Libyan Arab Jamahiriya since April 1992, is considered by the Libyan Government as a difficulty affecting the implementation of certain provisions of the Covenant.

3. Positive aspects

127. The Committee notes with satisfaction that the Covenant is part of the domestic law of the Libyan Arab Jamahiriya and that certain aspects of the Covenant have been included in the Great Green Charter of Human Rights of the Jamahiriyan Era (1988), in the Promotion of Freedom Act of 1991 and in the draft Constitution. It welcomes the fact that the Covenant has been published in the Official Bulletin and publicized in the media, while noting that the information provided to the Committee was not sufficient to clarify the precise application of the Covenant provisions or the practical steps open to people to enforce rights or to obtain remedies in case of violation.

128. The Committee also notes with satisfaction the measures taken in the Libyan Arab Jamahiriya to overcome discriminatory attitudes towards women and the initiatives introduced in the country to advance women's rights, to ensure their greater involvement in public life and to improve women's equality in employment and in marriage.

129. The Committee further welcomes the information in the report about the release of certain political and other prisoners, the demolition of certain prisons, the cancellation of the lists of persons banned from travelling and the proposed abolition of the special courts.

4. Principal subjects of concern

130. The Committee is seriously concerned that although the report mentions the objective of eliminating the death penalty, a large number of offences remain punishable by the death penalty in the Libyan Arab Jamahiriya, including economic crimes and other crimes that appear to go beyond the limitations of article 6 (2) of the Covenant. The Committee deplores that there appears to be have been an increase in the number of executions in the last year.

131. The Committee is seriously concerned at information it has received from United Nations and other reliable sources concerning summary or extrajudicial execution and torture perpetrated by the Libyan security forces. It deplores the introduction of cruel punishments such as flogging and amputation. The practice of arbitrary arrest and detention, the detention of persons sentenced after unfair trials and the length of pre-trial detention are also matters of serious concern. The Committee regrets the lack of information about certain identified people who are said to be held in incommunicado detention without trial for lengthy periods and about persons who oppose the Government and are said to have disappeared.

132. The Committee is also concerned at certain restrictions imposed in the Libyan Arab Jamahiriya on the freedom of opinion and expression, the right of

assembly and the right to freedom of association, which are not in conformity with articles 19, 21 and 22 of the Covenant. These restrictions also unduly limit the rights to participate in the conduct of public affairs, including the opportunity to criticize and to oppose the Government.

133. Lack of information makes it difficult for the Committee to assess the effectiveness in practice of safeguards protecting the rights of detainees and of those charged with criminal offences. The lack of independence of the legal profession and doubts about the openness and fairness of trial procedures remain concerns of the Committee.

134. In regard to women the Committee remains concerned about their lack of equality in certain areas of law such as inheritance rights and nationality. It also regrets the lack of specific information concerning the equality of women.

135. Another area of concern is that of freedom of religion. The severe punishments for heresy (which are said not to have been used) and the restrictions on the right to change religion appear to be inconsistent with article 18 of the Covenant. The lack of provision for conscientious objection to military service is another concern.

136. A general concern of the Committee is that in regard to many of the rights under the Covenant the basic law allows for broadly defined exceptions to these rights and no information has been provided as to the way in which those exceptions have been incorporated in specific laws or as to whether their application is in conformity with the Covenant.

5. Suggestions and recommendations

137. The Committee encourages the State party to take the necessary steps to adopt legislative or other measures to give effect to the rights recognized in the Covenant, as provided for by article 2, paragraph 2, of the latter. The Committee emphasizes that these rights represent minimum standards of universal application. This will require a detailed examination of specific laws and practices to ensure that they are fully consistent with the Covenant and do not impose limitations on rights other than those permitted by the Covenant.

138. Noting the statement in the report that the objective of Jamahiri society is to abolish the death penalty, the Committee encourages the State party to move forward with its plans to abolish the death penalty so that it may accede to the Second Optional Protocol to the Covenant.

139. The Committee calls upon the Libyan Arab Jamahiriya to investigate all allegations of summary or extrajudicial execution, disappearances, torture and incommunicado detention, including those referred to by the Committee, and to ensure that those responsible for violations of articles 6, 7 and 9 of the Covenant are prosecuted and that appropriate remedies are provided to the victims. It should implement effective measures to prevent further violations of those provisions of the Covenant and to ensure that the rights of detainees are respected and that the requirements of fair trial are met.

140. The Committee recommends that the State party review its laws that impose limitations on freedom of opinion, expression, association and assembly, to ensure that the restrictions on those freedoms conform to the limits permitted under articles 19, 21 and 22 of the Covenant.

141. The Committee urges the State party to continue with its programme to secure full legal and de facto equality for women in all aspects of society. It should also ensure that its obligations to respect freedom of religion in accordance with article 18 of the Covenant are met. In this connection, the Committee draws attention to its general comment on article 18 of the Covenant.

142. The Committee finally recommends that more detailed information about specific laws and more concrete and factual information about the enjoyment of rights be provided by the Libyan Arab Jamahiriya in its next periodic report so as to enable the Committee to understand clearly the progress made in the implementation of the Covenant in the State party.

143. The Committee urges the State party to discharge, in future, its reporting obligations under article 40 of the Covenant on a more timely basis.

E. Argentina

144. The Committee considered the second periodic report of Argentina (CCPR/C/75/Add.1) at its 1389th to 1391st meetings, on 21 and 22 March 1995, and adopted[12] the following final comments:

1. Introduction

145. The Committee welcomes the second periodic report submitted by the State party and views with satisfaction the frank and constructive manner in which the dialogue with the Committee has been conducted. It welcomes in particular the comprehensive answers provided by the high-level delegation representing the State party. None the less, the Committee expresses its regret that the report does not adequately deal with the factors and difficulties encountered with regard to the actual implementation of the Covenant. The Committee notes that this shortcoming was compensated in part by the oral update of the report, as well as the oral replies provided to the list of issues and other questions raised by the Committee during the consideration of the State party's report.

2. Factors and difficulties affecting the implementation of the Covenant

146. The Committee notes that the compromises made by the State party with respect to its authoritarian past, especially the Law of Due Obedience and Law of Punto Final and the presidential pardon of top military personnel, are inconsistent with the requirements of the Covenant.

3. Positive aspects

147. The Committee notes with satisfaction Argentina's continuous progress in its efforts to democratize and to match its level of human rights protection with international standards. Although much work remains to be done in this area, legislative developments since 1983 indicate that Argentina is committed to the protection of human rights at the highest levels. In this connection, the Committee welcomes the constitutional reforms of August 1994, which elevate several international human rights instruments, including the Covenant and the First Optional Protocol, above national laws and grants them constitutional status (arts. 31 and 75 (22) of the Constitution). The Committee further

welcomes the creation of the post of "Defender of the People", which was established in December 1993 under Act 24,284. This post is responsible for the protection of the rights of the Argentine people against possible infringement by the national authorities.

148. The Committee welcomes the programmes established for the advancement of women's equality and particularly welcomes the recognition on the part of the State party of violence against women as a matter of concern.

149. The Committee welcomes the enactment of Act 24,043 granting compensation to those who were detained by order of the Executive. It also welcomes Act 24,411, which grants some benefits to relatives of disappeared persons.

150. The Committee welcomes the revisions made to the Code of Criminal Procedure, those which are under way to the Code of Civil Procedure, the reform of the prison system and the establishment of the Office of the Government Procurator for the Prison System. It also welcomes the efforts by the State party to rehabilitate convicted prisoners and construct more facilities to alleviate prison crowding.

151. The Committee notes with satisfaction the elimination in the constitutional reforms of 1994 of the qualification that the President of the Republic must be Catholic.

152. The Committee also notes with satisfaction that the Ministries of the Interior and of Foreign Affairs are conducting human rights training programmes for law enforcement officials, personnel engaged in the administration of justice, and the general public.

4. Principal subjects of concern

153. The Committee reiterates its concern that Act 23,521 (Law of Due Obedience) and Act 23,492 (Law of Punto Final) deny effective remedy to victims of human rights violations, in violation of article 2, paragraphs 2 and 3, and article 9, paragraph 5, of the Covenant. The Committee is concerned that amnesties and pardons have impeded investigations into allegations of crimes committed by the armed forces and agents of national security services and have been applied even in cases where there exists significant evidence of such gross human rights violations as unlawful disappearances and detention of persons, including children. The Committee expresses concern that pardons and general amnesties may promote an atmosphere of impunity for perpetrators of human rights violations belonging to the security forces. Respect for human rights may be weakened by impunity for perpetrators of human rights violations.

154. In the latter connection, the Committee regrets that evidence presented to the Senate against members of the armed forces, proving that they have engaged in extrajudicial executions, forced disappearances, torture, or other violations of human rights, may in some cases prevent the promotion of those accused but does not in itself cause their dismissal.

155. The Committee is concerned about threats to members of the judiciary, which through intimidation seek to compromise the independence of the judiciary as set forth in article 14 of the Covenant. The Committee is further concerned about attacks against journalists and unionists, and the lack of protection afforded to them, which restricts the enjoyment of the rights of expression and association provided for in articles 19 and 22 of the Covenant.

156. While the Committee welcomes Act 24,043 and Act 24,411, it regrets that they do not provide for compensation for victims of torture. The Committee expresses concern about cases of excessive use of force, torture and arbitrary or unlawful detentions committed by members of the police and the armed forces which have been brought to its attention. It is concerned that there is no clear mechanism for investigating complaints of police violence that ensures there will be no reprisals against complainants, that where provincial administrations are lax in dealing with allegations of police violence the federal authorities do not ensure compliance with the Covenant, and that the perpetrators of acts of police violence generally are not punished and the victims are not compensated. It expresses concern about the delay in resolving the situation of children of disappeared persons and is especially disturbed at the failure of the report to provide any information at all on the real situation as it relates to article 7 of the Covenant.

157. The Committee is concerned that the Penal Code appears to be deficient in certain key areas that apparently conflict with the principle of presumption of innocence (art. 14, para. 2, of the Covenant). It is concerned about the system of pre-trial detention, which it considers to be one of the remaining vestiges of authoritarian rule. The Committee also expresses concern that persons may be detained for a period longer than the maximum penalty allowed by law and regrets, in this connection, that article 317 of the Constitution does not order their release. The Committee further notes that bail is established according to the economic consequences of the crime committed and not by reference to the probability that the defendant will not appear in court or otherwise impede due process of law. Nor is it compatible with the presumption of innocence that the length of pre-trial detention is not a product of the complexity of the case but is set by reference to the possible length of sentence. The Committee is also concerned that accused persons are held in detention in the same facilities as convicted persons, and that the grounds for judicial authorization of telephone tapping may be too broadly drawn.

5. Suggestions and recommendations

158. The Committee recommends that the State party, in accordance with article 2, paragraph 2, of the Covenant, develop mechanisms for compensating all remaining victims of past violations of human rights by amending Act 24,043 or enacting appropriate legislation for the victims of such crimes. The Committee especially recommends that appropriate care be taken in the use of pardons and general amnesties so as not to foster an atmosphere of impunity (see the Committee's general comment No. 7 (16)). The Committee recommends that members of the armed forces or security forces against whom sufficient evidence of involvement in gross human rights violations exists be removed from their posts.

159. The Committee urges the State party to continue to investigate the whereabouts of disappeared persons, to complete urgently investigations into the allegations of illegal adoption of children of disappeared persons and to take appropriate action. It also urges the State party fully to investigate recent allegations of murders committed by the military during the period of military rule and to take action on the findings.

160. The Committee notes that the Office of the Under-Secretary-General of Human and Social Rights falls under the jurisdiction of the Ministry of the Interior, which also regulates the police forces. The Committee recommends that measures to guarantee the independence of the Under-Secretary-General be taken, particularly with respect to investigations of human rights violations.

161. The Committee urges that all necessary steps be taken to prevent cases of excessive use of force, torture, arbitrary detention or extrajudicial execution by members of the armed forces or the police. These steps should include preventive, disciplinary and punitive measures, as well as appropriate training. All violations should be investigated and the victims compensated.

162. The Committee recommends that special protection be provided to journalists and members of trade unions under threat or intimidation so as effectively to protect the rights provided for in articles 19 and 22 of the Covenant.

163. With respect to the Code of Criminal Procedure, the Committee recommends that the system of pre-trial detention be carefully reviewed. Legal safeguards should be established to ensure that, in instances where pre-trial detention exceeds the maximum applicable penalty for a crime, the defendant will be released without qualification. The Committee urges the State party to define clearly the purpose of pre-trial detention and to set the length of detention accordingly, applying the principle of presumption of innocence. It recommends the same consideration in the setting of bail.

164. The Committee recommends that the State party include information in its next report on the procedures established to ensure compliance with the views and recommendations adopted by the Committee under the First Optional Protocol, also bearing in mind its obligations under article 2 of the Covenant.

165. The Committee recommends that Argentina include, in its next periodic report, information on the measures adopted to follow up on the present comments and give effect to its suggestions and recommendations. It further recommends that its comments be widely disseminated and incorporated into the curriculum of the human rights training programmes organized for law enforcement officials and administrators of justice.

F. New Zealand

166. The Committee considered the third periodic report of New Zealand (CCPR/C/64/Add.10 and HRI/CORE/1/Add.33) at its 1393rd to 1395th meetings, on 23 and 24 March 1995, and adopted[12] the following final comments:

1. Introduction

167. The Committee expresses its appreciation to the State party for its excellent report, which contains detailed information on law and practice relating to the implementation of the Covenant and is in full conformity with the Committee's guidelines. The Committee appreciates the fact that the report shows continuous development in the protection of rights and allows the dialogue with the Committee to take place as an unbroken continuation of the examination of the initial and second reports. The Committee is also grateful for the oral responses provided by the competent delegation and considers that the dialogue with the State party has been most fruitful and constructive.

168. The Committee commends the State party for the core document (HRI/CORE/1/Add.33), which has been drawn up in accordance with the consolidated guidelines for the initial part of reports to be submitted by States parties under the various international human rights instruments (HRI/1991/1).

2. Factors and difficulties affecting the implementation of the Covenant

169. The Committee finds that there are no important difficulties which may affect the implementation of the Covenant in New Zealand.

3. Positive aspects

170. The Committee notes with appreciation the level of achievement in respect of human rights in New Zealand. It particularly welcomes the positive developments that have been realized following recommendations of the Committee at the end of the consideration of the second periodic report of New Zealand. Among these developments, the Committee notes the accession to the First Optional Protocol to the Covenant and the ratification of the Second Optional Protocol to the Covenant following the adoption of the Abolition of the Death Penalty Act, 1989.

171. The Committee considers the adoption and entry into force on 25 September 1990 of the Bill of Rights Act, which expressly affirms New Zealand's commitment to the Covenant and which provides a statutory basis for the protection of human rights and fundamental freedoms in New Zealand, as an important step towards the full protection of the rights set forth in the Covenant. The Committee also welcomes the passage into law of the Privacy Act 1993, which promotes and protects individual privacy, and of the Human Rights Act, which entered into force on 1 February 1994. The latter Act further enhances protection of article 2, paragraph 1, of the Covenant by extending the grounds on which discrimination is prohibited. The Act also expands the role of the Human Rights Commission and enables it to inquire into any matter where it appears that human rights have been infringed.

172. The Committee welcomes widely based legislation to provide protection against domestic violence. The Committee is also pleased to note the provision of appeals procedures for refugees and that applicants for refugee status are entitled to work pending a decision on their status. Planned improvements of prison conditions are also welcome.

173. The Committee welcomes the important developments that have occurred in relation to the interests of the Maori. Among these developments, the Committee notes the increasing importance of the work of the Treaty of Waitangi Tribunal in dealing with Maori claims against the Crown. The Committee also appreciates the fact that New Zealand has dedicated the first year of the International Decade of the World's Indigenous People to the Maori language. In this connection, the Committee takes note with satisfaction of the adoption of a language nest programme whereby Maori language, customs and values are taught to pre-school children, as well as other programmes set up to promote Maori language, art and culture.

174. The Committee also welcomes the changes introduced in the electoral law which may provide greater opportunities for the representation of minority groups, Maori and women.

175. With regard to the right of self-determination, the Committee welcomes the development of local institutions of government in Tokelau and the gradual delegation of powers to Tokelauan authorities, which corresponds to the desire of the people of Tokelau to be self-reliant to the greatest extent possible.

4. Principal subjects of concern

176. The Committee regrets that the provisions of the Covenant have not been fully incorporated into domestic law and given an overriding status in the legal system. Article 2, paragraph 2, of the Covenant requires States parties to take such legislative or other measures which may be necessary to give effect to the rights recognized in the Covenant. In this regard the Committee regrets that certain rights guaranteed under the Covenant are not reflected in the Bill of Rights, and that it does not repeal earlier inconsistent legislation and has no higher status than ordinary legislation. The Committee notes that it is expressly possible, under the terms of the Bill of Rights, to enact legislation contrary to its provisions and regrets that this appears to have been done in a few cases.

177. The Committee expresses concern about the absence of express provision for remedies for all those whose rights under the Covenant or the Bill of Rights have been violated.

178. The Committee regrets that the operation of the new prohibited grounds of discrimination, contained in section 21 of the Human Rights Act 1993, is postponed until the year 2000. It also notes with concern that the prohibited grounds of discrimination do not include all the grounds in the Covenant and, in particular, that language is not mentioned as a prohibited ground of discrimination.

179. The Committee is concerned about provisions in the Criminal Justice Amendment Act which provide for a sentence of indeterminate detention for offenders convicted of serious crimes who are likely to repeat such crimes. The imposition of punishment in respect of possible future offences is inconsistent with articles 9 and 14 of the Covenant.

180. In relation to the right of freedom of expression, the Committee expresses its concern over the vagueness of the term "objectionable publication" and the fact that section 121 of the Films, Videos and Publications Classification Act makes the "possession of any objectionable publication" a criminal offence, even if the person concerned has no knowledge or no reasonable cause to believe that the publication is considered to be objectionable.

181. The Committee is concerned about the fact that, while the Human Rights Act contains a provision corresponding to article 20, paragraph 2, of the Covenant, this provision does not include a prohibition of advocacy of religious hatred.

182. The Committee regrets that despite improvements, Maori still experience disadvantages in access to health care, education and employment. The Committee is also concerned that the proportion of Maori in Parliament and other high public offices, liberal professions and in the senior rank of civil service remains low.

183. The Committee also regrets the delay in the submission of reports under the Covenant by the Tokelau and the Cook Islands Governments and reminds the Government of New Zealand of its obligations under the Covenant in this regard.

5. Suggestions and recommendations

184. The Committee recommends that the State party take appropriate measures to incorporate all the provisions of the Covenant into domestic law and to provide remedies for all persons whose rights under the Covenant have been violated.

185. The Committee recommends that the Bill of Rights be revised in order to bring it into full consistency with the provisions of the Covenant and to give the courts power as soon as possible to strike down or decline to give effect to legislation on the ground of inconsistency with Covenant rights and freedoms as affirmed in the Bill of Rights.

186. The Committee recommends that the State party revise the provisions relating to "indeterminate sentence of preventive detention" contained in the Criminal Justice Amendment Act in order to bring the Act into full consistency with articles 9 and 14 of the Covenant.

187. The Committee equally recommends amendment of the Films, Videos and Publications Classification Act by a more specific definition of "objectionable publication" or by removing criminal liability for possession without knowledge of or reasonable cause to believe in the objectionability of material.

188. The Committee expresses the hope that any decisions to be taken about future limitations to the entitlement of Maori to advance claims before the Waitangi Tribunal will take full account of Maori interests under the Treaty of Waitangi.

189. The Committee recommends that the State party include information in its next report on the procedures established to ensure compliance with the views and recommendations adopted by the Committee under the First Optional Protocol, also bearing in mind its obligations under article 2 of the Covenant.

190. The Committee recommends that the State party review its reservations relating to articles 10 and 22 of the Covenant with a view to withdrawing them.

191. The Committee would appreciate receiving in the next periodic report information on the experience gained in applying the new Electoral Act and about the Equal Employment Opportunity provisions and their effects on women's entitlement to equal pay and equal employment opportunity. The Committee would also like to be informed on further activities of the National Human Rights Commission and the Treaty of Waitangi Tribunal, and about progress in prison reform.

G. Paraguay

192. The Committee considered the initial report of Paraguay (CCPR/C/84/Add.3 and HRI/CORE/1/Add.24) at its 1392nd and 1396th meetings, on 22 and 24 March 1995, and adopted[13] the following comments:

1. Introduction

193. The Committee welcomes the initial report submitted by the State party and views with satisfaction the cooperative attitude of the delegation in engaging in the dialogue with the Committee. It regrets, however, that the report, while providing detailed information on prevailing legislation in Paraguay, does not

adequately deal with the actual state of implementation of the Covenant in practice and the difficulties encountered during implementation. Although the information provided orally by the delegation has addressed some of the concerns of the Committee, the Committee has obtained only a partial picture of the human rights situation in the country.

194. The Committee commends the State party for the core document (HRI/CORE/1/Add.24), which has been drawn up in accordance with the consolidated guidelines for the initial part of reports to be submitted by States parties under the various international human rights instruments (HRI/1991/1).

2. Factors and difficulties affecting the implementation of the Covenant

195. The Committee recognizes that the State party, which is emerging from a change of government in 1989 that ended a long period of dictatorial rule, is undergoing a transition towards democracy in which the infrastructure necessary for the implementation of the Covenant has not been fully developed. The Committee understands that the many encouraging legislative initiatives with respect to human rights are being implemented with difficulty, and that a full assessment of such implementation is not yet possible.

3. Positive aspects

196. The Committee notes with satisfaction Paraguay's continuous progress since 1989 in its efforts to democratize and to match its level of human rights protection with international standards. It particularly welcomes the signing and ratification of a number of international human rights instruments, including the Covenant and the First Optional Protocol, and the legislative and administrative steps taken to advance their implementation. The Committee also commends the State party for ratifying the Covenant without entering any reservations.

197. The Committee particularly welcomes the promulgation of the 1992 Constitution, which incorporates provisions for the protection of civil and political rights and grants constitutional status to a number of international human rights instruments, including the Covenant, thus elevating them above national law.

198. The Committee further welcomes the creation of machinery to receive complaints and manage various aspects of human rights issues, including the Directorate-General for Human Rights under the Ministry of Justice and Labour, the Office of the Ombudsman, and the Human Rights Commissions established in the two Chambers of Congress.

199. The Committee welcomes the amendments made to the Civil Code in 1992 and other relevant legislation that advanced the equal enjoyment of civil and political rights by women. It also welcomes the establishment of the Women's Secretariat.

200. The Committee appreciates the declaration made by the delegation according to which the Government will not enact any amnesty law, and that, on the contrary, concrete steps have already or are being taken to make accountable perpetrators of human rights abuses under the past dictatorial regime. It notes in this regard that such laws, where adopted, are preventing appropriate

investigation and punishment of perpetrators of past human rights violations, undermine efforts to establish respect for human rights, further contribute to an atmosphere of impunity among perpetrators of human rights violations, and constitute impediments to efforts undertaken to consolidate democracy and promote respect for human rights.

201. The Committee notes with satisfaction the Government's initiative to make public the military's archives, thus enabling individuals to file complaints based on the information contained in those archives.

202. The Committee notes with satisfaction the incorporation of human rights issues into the formal secondary education curriculum.

203. The Committee welcomes Paraguay's efforts to modernize the judicial process with international assistance. It also notes that a revision of the Penal Code and the Code of Criminal Procedure is under way.

204 The Committee takes note of the will of the State party to ratify the Second Optional Protocol to the Covenant on the abolition of the death penalty.

4. Principal subjects of concern

205. The Committee regrets that no information was provided about the compensation of victims of human rights violations during the dictatorship.

206. The Committee expresses concern about the continuing occurrence of torture and ill-treatment of detainees, even after the restoration of democracy in 1989. In this connection, the Committee is concerned that there remain officials who are identified and committed to the authoritarian practices of the former regime.

207. The Committee is concerned that, despite constitutional guarantees for the rights of women, women continue to receive unequal treatment in Paraguay, owing in part to outdated laws that clearly contradict the provisions of the Covenant. These would include laws that are more lenient in instances of infanticide committed to protect the honour of a woman than in ordinary cases of homicide and laws that make distinctions in the punishment accorded to persons who rape or abduct women depending on the marital status of the victim. It further notes that labour laws do not adequately protect the rights of women. It notes that domestic work, which is a principal occupation among women, is excluded from minimum wage laws.

208. The Committee expresses its concern about the high level of deaths among expectant mothers referred to in the report. In this regard, it regrets that the State party could not provide information about the effect of the enforcement of abortion laws on this high level of deaths.

209. The Committee is concerned that national laws in conflict with the Constitution remain on the books. In addition, some constitutional provisions, such as the right to compensation for violation of rights (art. 39), still require implementing laws.

210. The Committee notes with concern the practice of not separating accused from convicted persons in prisons, which violates article 10, paragraph 2 (a), of the Covenant. The Committee also notes with concern that there are not sufficient measures to limit pre-trial detention, which makes such detention a

common practice rather than an exceptional measure. In the view of the Committee, the conditions in the law do not provide sufficient justification for pre-trial detention in the absence of a reasonable possibility of escape from justice or danger to the community.

211. The Committee expresses concern about the lack of information regarding the independence of the judiciary, principally as to the security of tenure.

212. The Committee is concerned that the predominant role of the Catholic Church in Paraguay appears to lead to certain de facto discrimination against other religions.

213. The Committee is concerned that poverty and lack of education, particularly among indigenous people, adversely affect many people in their ability to enjoy civil and political rights.

214. The Committee notes that the restriction on voting for students of military schools seems to be an unreasonable restriction on article 25 of the Covenant on the right to participate in public life.

5. Suggestions and recommendations

215. Regarding the application of the Covenant, the Committee requests that it be informed in future periodic reports of the State party of any instances that may arise where the Covenant was directly invoked in the courts, as well as the results of any such proceedings.

216. The Committee commends the State party, in accordance with article 2, paragraph 2, of the Covenant, for its efforts to bring to justice perpetrators of past human rights abuses. It urges the State party to continue to investigate allegations of human rights violations, past and present, for which purpose all archives of the past regime should be carefully explored. It further urges the State party to act on the findings of its investigations, to bring to justice the perpetrators and to provide proper compensation to the victims, particularly with respect to continuing occurrences of torture and ill-treatment by the police and security forces. The Committee recommends that an independent and credible mechanism be instituted for dealing with complaints of police violence and that the existence of this mechanism be publicized.

217. The Committee urges the State party to comply with article 10, paragraph 2 (a), of the Covenant by separating in prison accused persons from convicted prisoners. The Committee further recommends that the State party review its laws and practices concerning pre-trial detention to ensure that such detention is not regarded as the general rule and that, where it is imposed, its period is subject to strict limits, in conformity with article 4 of the Covenant.

218. The Committee recommends that all national legislation on women be reviewed with a view to modernizing the outdated legal standards currently in force to bring them into line with the relevant provisions of the Covenant. The Committee recommends in particular that the State party review its laws on criminal offences committed against women and all labour laws that discriminate against women and take the measures necessary to overcome traditional attitudes concerning the role of women in society. It further recommends that the State party encourage the political participation of women in public, particularly in

political life, which remains low despite the legal advances that have reduced restrictions in this area.

219. The Committee requests the State party to provide information in its next report about the incidence of illegal abortion, the relationship between illegal abortions and the high incidence of maternal mortality, and its implementation of article 61 of the Constitution.

220. The Committee recommends that the State party undertake a thorough review of its national legislation to ensure conformity with the standards set by both the Constitution and the Covenant. It recommends in this connection that the Covenant and the specific recommendations made in the present comments be taken into account in the revision of the Penal Code currently under way.

221. The Committee recommends that the State party include in its next report comprehensive information on the issues raised during the consideration of the report, particularly on the effectiveness of the laws under review or in existence, the evolving roles of the institutions established for the protection of human rights, and the system of coordination of the various institutions.

222. The Committee recommends that the State party include information in its next report on the procedures established to ensure compliance with the views and recommendations adopted by the Committee under the First Optional Protocol, also bearing in mind its obligations under article 2 of the Covenant.

223. The Committee recommends that the Covenant, the Optional Protocols and the Committee's comments be widely disseminated among the Paraguayan public and that the scope of human rights education be extended to members of the police and security forces, the legal profession and other persons involved in the administration of justice, with a view to making it a part of their regular training.

H. Haiti

224. In the light of past and continuing events in Haiti affecting the human rights guaranteed by the International Covenant on Civil and Political Rights, and in accordance with article 40, paragraph 1 (b), of the Covenant, the Committee requested the Government of Haiti, on 27 October 1994, to submit a special report, not later than 31 January 1995 and if necessary in summary form, describing, in particular, the implementation of articles 6, 7, 9, 10 and 14 of the Covenant during the current period, for consideration by the Committee at its fifty-third session. In response to that request, the Government of Haiti submitted a report on 27 February 1995 (CCPR/C/105), which was considered by the Committee at its 1397th and 1398th meetings, on 27 March 1995. The Committee adopted[13] the following comments:

1. Introduction

225. The Committee welcomes the willingness of the Government of the State party to cooperate and to enter into a constructive dialogue with the Committee on the application of the Covenant in Haiti, as evidenced by the submission of the special report and the sending of a high-level delegation to present the report. The Committee notes that, while providing some information about constitutional and legal measures giving effect to articles 6, 7, 9, 10 and 14, the report lacked information on the practice concerning human rights and on the

difficulties affecting the application of the Covenant in the country. The Committee, mindful of the difficulties facing all branches of government in Haiti since the restoration of the legitimate Government, thanks the delegation for endeavouring to reply to the questions raised in the course of the dialogue and thus, to a certain extent, make up for the report's shortcomings.

2. Factors and difficulties affecting the implementation of the Covenant

226. The Committee notes that Haiti is only now emerging from a long and devastating military dictatorial past during which grave human rights violations occurred, including summary executions, torture and other inhuman or degrading treatment and arbitrary arrests and detentions. The country has only recently initiated a process of recovery and has just embarked on a course of transition to democracy. The Committee also notes that, despite efforts undertaken by the Government, political and social attitudes still prevalent in the country are not conducive to the promotion and protection of human rights. Violence and disorder continue to disrupt society and many weapons remain in the hands of members of former paramilitary groups and the public in general. The lack of a functioning judicial system, and deeply rooted social and economic problems, affect the application of the Covenant.

3. Positive aspects

227. The Committee welcomes the restoration of the legitimate Government of Haiti and the considerable efforts made by the present Government to ensure respect for human rights. In this connection the establishment by presidential decree of a National Commission on Truth and Justice with the task of carrying out investigations into human rights violations and ensuring justice for the victims of such violations is particularly appreciated. The Committee also notes the creation of a civilian police force separated from the armed forces as an important step. The Committee appreciates the fact that programmes for the training of judges and police officers are being initiated.

228. The Committee notes with satisfaction the adoption of a number of laws directly affecting the establishment and development of institutions and policies for the protection of human rights, such as the recent Act declaring all paramilitary groups illegal, the Territorial Communities Act, which eliminates the former autocratic system of section chiefs and provides for local authorities elected by the people, and the Electoral Act. The Committee also welcomes the beginning of the process which will lead to the holding of parliamentary elections in June 1995 and presidential elections in December 1995.

4. Principal subjects of concern

229. Given the general conditions prevailing at the present time in Haiti, the Committee has not detailed all its concerns relating to inconsistencies between provisions of Haitian legislation, including the Constitution and the Covenant.

230. The Committee expresses its concern about the effects of the Amnesty Act, agreed upon during the process which led to the return of the elected Government of Haiti. It is concerned that, despite the limitation of its scope to political crimes committed in connection with the coup d'état or during the past

regime, the Amnesty Act might impede investigations into allegations of human rights violations, such as summary and extrajudicial executions, disappearances, torture and arbitrary arrests, rape and sexual assault, committed by the armed forces and agents of national security services. In this connection, the Committee wishes to point out that an amnesty in wide terms may promote an atmosphere of impunity for perpetrators of human rights violations and undermine efforts to re-establish respect for human rights in Haiti and to prevent a recurrence of the massive human rights violations experienced in the past.

231. The Committee emphasizes the importance of investigation of human rights violations, determination of individual responsibility and fair compensation for the victims, and regrets that the Commission on Truth and Justice has not yet initiated its work.

232. The Committee is concerned that failure to screen and exclude human rights violators from service in the military, the police force and the judiciary will seriously weaken the transition to security and democracy. The Committee is also concerned that human rights violations by members of the armed forces, agents of security services, and members of former paramilitary groups still occur. The Committee notes with particular concern the lack of full and effective control by civilian authorities over the military. The Committee is concerned that the composition, command and number of the armed forces is not clearly defined.

233. The Committee expresses its concern at the numerous problems affecting the proper functioning of the justice system, including long periods of pre-trial detention and overcrowding of prisons. It wishes to point out in this regard that, unless a serious effort is undertaken to reform the judiciary and re-establish a proper functioning of the judicial system, efforts to strengthen the rule of law and to promote respect for human rights will be seriously undermined.

234. The Committee is concerned about allegations of forced labour of minors in violation of article 8 of the Covenant.

5. Suggestions and recommendations

235. In view of the fact that the Amnesty Act was adopted before the reinstallation of the legitimate Government, the Committee urges the State party to apply that Act in conformity with the Covenant and to exclude from its scope the perpetrators of past human rights violations.

236. The Committee emphasizes the obligation of the State party under article 2, paragraph 3, of the Covenant to ensure that victims of past human rights violations have an effective remedy. It strongly recommends that the Commission on Truth and Justice initiate its work as soon as possible and that other mechanisms be set up to investigate human rights violations by members of the police, the armed forces and other security services and the judiciary to ensure that persons closely associated with human rights abuses do not serve in those offices.

237. In order to guarantee the safety of the population, the Committee recommends that a clear policy be implemented to disarm members of former paramilitary groups and that effective measures be taken to reduce the number of weapons in the community.

238. The Committee recommends that a major reform of the judiciary be undertaken with a view to establishing an independent and impartial judicial system which will safeguard human rights and enforce the rule of law.

239. The Committee strongly recommends that the State party confirm the ratification of the Optional Protocols to the Covenant by depositing the necessary instruments of ratification or accession with the Secretary-General of the United Nations. Acceptance of the First Optional Protocol would affirm the commitment of the Government with respect to inquiries into allegations of human rights abuses and help to protect the human rights of individuals in the difficult period the country is facing.

240. The Committee urges that respect for human rights be recognized as an essential element of the process of national reconciliation and reconstruction. To that end, the Committee recommends that all provisions of the Covenant be fully incorporated into the national legal system; that the administration and Parliament, as a confidence-building measure, set up special institutions, open to individuals, to assist in the daily implementation of human rights; that comprehensive human rights training be provided to judges, the police and the military; and that human rights education be provided in schools at all levels.

241. The Committee urges the State party to submit information on measures taken to implement these suggestions and recommendations together with the submission of the initial report, which was due on 6 July 1992, and for whose submission the Committee sets the date of 1 April 1996.

I. Yemen

242. The Committee considered the second periodic report of Yemen (CCPR/C/82/Add.1) at its 1372nd and 1373rd meetings, on 26 October 1994, and at its 1403rd and 1404th meetings, on 30 March 1995, and subsequently adopted[14] the following comments:

1. Introduction

243. The Committee welcomes the second periodic report submitted by the State party and welcomes the delegation's willingness to resume its dialogue with the Committee. The Committee regrets, however, that although the report provides information on general legislative norms in Yemen, it fails to deal with the actual state of implementation of the Covenant in practice and the difficulties encountered in the course of implementation. The Committee appreciated the presence of a competent delegation which provided helpful information to the Committee in addressing some of its questions. Nevertheless, the Committee has obtained only a partial picture of the human rights situation in the country.

244. The Committee welcomes in this connection the intention expressed by the delegation to send additional information as requested by the Committee, particularly information on the difficulties encountered in the implementation of the Covenant, statistics relating to specific articles and the texts of the Civil Code, Code of Criminal Procedure, the amendments to the Constitution and other relevant laws and regulations.

2. Factors and difficulties affecting the implementation of the Covenant

245. The Committee notes that the civil war has left much of the infrastructure destroyed and created severe economic difficulties, which have served to restrict the resources allocated to the protection of human rights. The Committee also notes that national reconstruction and reconciliation remains handicapped by internal disorder.

246. The Committee notes the existence in the State party of customs and traditions, particularly in the area of equality between men and women, which may tend to impede the proper observance of international standards of human rights.

3. Positive aspects

247. The Committee welcomes the succession of Yemen to the Covenant, which was previously acceded to by the Democratic Republic of Yemen in 1986.

248. The Committee welcomes the Government's efforts to raise awareness of human rights issues by disseminating the texts of human rights treaties, including the Covenant, and by holding seminars in this field. It further welcomes the Government's assertion that newspapers are free to publish the reports submitted by the Government and other information released by human rights groups and international organizations.

249. The Committee welcomes the delegation's indication of the Government's willingness to investigate specific cases of human rights violations brought to its attention. In this regard, the Committee notes the assurances of the delegation that the courts are receiving cases of human rights violations which took place during the civil war.

4. Principal subjects of concern

250. The Committee is concerned that some aspects of the legal provisions in the State party do not conform entirely with the Covenant.

251. The Committee calls attention to the contradictions between the Covenant and the Constitution, which affords a lower level of human rights protection than does the Covenant. The Committee expresses concern that victims of human rights violations, despite the direct applicability of the Covenant, may be denied effective remedy if the courts adhere to the standards set forth in the Constitution.

252. The Committee notes with concern the general amnesty granted to civilian and military personnel for human rights violations they may have committed against civilians during the civil war. The Committee notes in this regard that some amnesty laws may prevent appropriate investigation and punishment of perpetrators of past human rights violations, undermine efforts to establish respect of human rights, contribute to an atmosphere of impunity among perpetrators of human rights violations and constitute impediments to efforts undertaken to consolidate democracy and promote respect for human rights.

253. The Committee notes with concern that the role and the competences of the political security forces have not been clarified.

254. The Committee expresses its deep concern at allegations of arbitrary deprivation of life, acts of torture or other cruel, inhuman or degrading treatment, arbitrary arrest and detention, abusive treatment of persons deprived of their liberty and violations of the rights to a fair trial. It is deeply concerned that those violations were not followed by inquiries or investigations, that the perpetrators of such acts were not punished and that the victims were not compensated. Ill-treatment of prisoners and overcrowding of prisons continue to be of concern.

255. The Committee notes with concern reports of female genital mutilation, which appears to be a common practice in some parts of the country. It also notes with concern that the provisions of the Personal Status Act No. 20 of 1992, particularly articles 40 and 41, establish unequal obligations of wives and husbands where wives are relegated to an inferior position. The Committee is concerned that the requirements of this Act, particularly that wives must obey their husbands' orders and may not leave their homes except in limited situations, contradict articles 3 and 23 of the Covenant. The Committee further regrets that the laws of Yemen contain no specific provisions for dealing with domestic violence.

256. The Committee is concerned about the lack of information concerning the death penalty in Yemen and, bearing in mind that article 6 of the Covenant limits the circumstances under which the death penalty may be imposed, regrets that it is unable to assess whether the State party is in conformity with article 6 owing to the lack of information on the specific crimes that may result in the imposition of the death penalty and on the number of cases in which it was imposed. The Committee deplores that, according to information before it, executions of persons below the age of 18 have taken place that would be a clear violation of article 6, paragraph 5, of the Covenant. The Committee requests that the State party provide information on tne cases mentioned during the dialogue. In this regard, the Committee regrets that the right to life has not been incorporated in the new Constitution. The Committee is also deeply concerned about the maintenance of corporal punishments like amputation of limbs and whipping, which is in violation of article 7 of the Covenant.

257. The Committee notes with deep concern the widespread employment of minors, especially in rural areas.

5. Suggestions and recommendations

258. The Committee recommends that a thorough review be undertaken of the legal framework for the protection of human rights in the State party to ensure full conformity with the Covenant. The Committee takes note of the indication by the delegation of the lack of technical expertise in the legal field in the State party and its appeal for assistance in this area. Accordingly, the Committee recommends that the State party avail itself of the technical cooperation services of the Centre for Human Rights and address through the Centre's programmes the question of the status of the Covenant in relation to the Constitution.

259. Regarding the application of the Covenant, the Committee requests that it be informed in future periodic reports of the State party of any instances that may arise where the Covenant was directly invoked in the courts, as well as the results of any such proceedings.

260. The Committee recommends that the State party endeavour to bring to justice perpetrators of human rights abuses, in accordance with article 2 (2) of the Covenant. It urges the State party to continue to investigate allegations of human rights violations, past and present, to act on the findings of its investigations, to bring to justice the perpetrators and to compensate the victims of such acts. To this end, the Committee recommends that an independent mechanism be instituted for receiving complaints of human rights violations and that this mechanism be given investigative authority to pursue such complaints. The Committee suggests that the Government pursue in this manner not only individual complaints but also violations reported by national and international non-governmental organizations.

261. The Committee recommends that the State party review its laws and make appropriate amendments to ensure full legal and de facto equality for women in all aspects of society, particularly in the laws governing the status of women, women's rights and obligations in marriage. The Committee further recommends that the Government conduct a study on the practice of female genital mutilation within its territory and formulate specific plans to eradicate this practice.

262. The Committee recommends that the Government review its policy on the death penalty with a view to its eventual abolishment. Recalling that article 6 of the Covenant limits the circumstances under which the death penalty may be imposed, it recommends that the Government include in its next report a list of all of the crimes that, when tried, may result in the imposition of the death penalty. If the imposition of the death penalty in respect of some of these crimes is found to be inconsistent with article 6, the Committee recommends that the relevant laws be appropriately amended. The Committee recommends that the Government take the initiative for the total abolishment of corporal punishment.

263. The Committee recommends that the Government conduct a study on the phenomenon of working children, especially children in rural areas, and include its findings in its next periodic report to the Committee.

264. The Committee recommends that more detailed information about specific laws and more concrete and factual information about the enjoyment of rights be provided by Yemen in its next periodic report so as to enable the Committee to clearly understand the progress made in the implementation of the Covenant in the State party.

265. The Committee recommends that appropriate mechanisms be established to revise the relevant legal codes, to provide human rights training for personnel involved in the administration of justice, to draft the State party's reports to various human rights treaty bodies and to collect and analyse data on human rights issues. In this regard, the Committee recommends that the Government draw on the assistance available through the Centre for Human Rights technical cooperation services.

J. United States of America[15]

266. The Committee considered the initial report of the United States of America (CCPR/C/81/Add.4 and HRI/CORE/1/Add.49) at its 1401st, 1402nd, 1405th and 1406th meetings, on 29 and 31 March 1995, and adopted[16] the following comments:

1. Introduction

267. The Committee expresses its appreciation at the high quality of the report submitted by the State party, which was detailed, informative and drafted in accordance with the guidelines. The Committee regrets, however, that, while containing comprehensive information on the laws and regulations giving effect to the rights provided in the Covenant at the federal level, the report contained few references to the implementation of Covenant rights at the state level.

268. The Committee appreciates the participation of a high-level delegation which included a substantial number of experts in various fields relating to the protection of human rights in the country. The detailed information provided by the delegation in its introduction of the report, as well as the comprehensive and well-structured replies provided to questions raised by members, contributed to making the dialogue extremely constructive and fruitful.

269. The Committee notes with appreciation that the Government gave publicity to its report, thus enabling non-governmental organizations to become aware of its contents and to make known their particular concerns. In addition, a number of representatives of these organizations were present during the Committee's consideration of the report.

2. Factors and difficulties affecting the implementation of the Covenant

270. The Committee notes that, despite the existence of laws outlawing discrimination, there persist within society discriminatory attitudes and prejudices based on race or gender. Furthermore, the effects of past discriminations in society have not yet been fully eradicated. This makes it difficult to ensure the full enjoyment of the rights provided for under the Covenant to everyone within the State party's jurisdiction. The rise in crime and violence also affects the enjoyment of the rights provided for in the Covenant.

271. The Committee also notes that under the federal system prevailing in the United States, the states of the union retain extensive jurisdiction over the application of criminal and family law in particular. This factor, coupled with the absence of formal mechanisms between the federal and state levels to ensure appropriate implementation of the Covenant rights by legislative or other measures, may lead to a somewhat unsatisfactory application of the Covenant throughout the country.

3. Positive aspects

272. The Committee recognizes the existence of effective protection of human rights available to individuals under the Bill of Rights and federal laws. The Committee notes with satisfaction the rich tradition and the constitutional framework for the protection of human rights and freedoms in the United States.

273. The Committee notes with satisfaction that the United States has recently ratified or acceded to some international human rights instruments, including the Covenant, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Elimination of All Forms of Racial Discrimination. These ratifications reflect a welcome trend

towards acceptance of international scrutiny, supervision and control of the application of universal human rights norms at the domestic level.

274. The Committee welcomes the efforts of the Federal Government to take measures at the legislative, judicial and administrative levels to ensure that the states of the union provide human rights and fundamental freedoms. It further appreciates the expression of readiness by the Government to take such necessary further measures to ensure that the states of the union implement the rights guaranteed by the Covenant.

275. The Committee notes with satisfaction that in the first statement of understanding made at the time of ratification the principle of non-discrimination is construed by the Government as not permitting distinctions that would not be legitimate under the Covenant.

276. The Committee takes note of the position expressed by the delegation that, notwithstanding the non-self-executing declaration of the United States, American courts are not prevented from seeking guidance from the Covenant in interpreting American law.

277. The Committee further notes with satisfaction the assurances of the Government that its declaration regarding the federal system is not a reservation and is not intended to affect the international obligations of the United States.

4. Principal subjects of concern

278. The Committee has taken note of the concerns addressed by the delegation in writing to its Chairman about the Committee's general comment No. 24 (52) on issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto (CCPR/C/21/Rev.1/Add.6). Attention is drawn to the observations made by the Chairman of the Committee at the 1406th meeting, on 31 March 1995 (CCPR/C/SR.1406).

279. The Committee regrets the extent of the State party's reservations, declarations and understandings to the Covenant. It believes that, taken together, they intended to ensure that the United States has accepted only what is already the law of the United States. The Committee is also particularly concerned at reservations to article 6, paragraph 5, and article 7 of the Covenant, which it believes to be incompatible with the object and purpose of the Covenant.

280. The Committee regrets that members of the judiciary at the federal, state and local levels have not been made fully aware of the obligations undertaken by the State party under the Covenant, and that judicial continuing education programmes do not include knowledge of the Covenant and discussion on its implementation. Whether or not courts of the United States eventually declare the Covenant to be non-self-executing, information about its provisions should be provided to the judiciary.

281. The Committee is concerned about the excessive number of offences punishable by the death penalty in a number of states, the number of death sentences handed down by courts and the long stay on death row, which, in specific instances, may amount to a breach of article 7 of the Covenant. It deplores the recent expansion of the death penalty under federal law and the re-establishment of the death penalty in certain states. It also deplores

provisions in the legislation of a number of states that allow the death penalty to be pronounced for crimes committed by persons under 18 and the actual instances where such sentences have been pronounced and executed. It also regrets that, in some cases, there appears to have been lack of protection from the death penalty of those mentally retarded.

282. The Committee is concerned at the reportedly large number of persons killed, wounded or subjected to ill-treatment by members of the police force in the purported discharge of their duties. It also regrets the easy availability of firearms to the public and the fact that federal and state legislation is not stringent enough in that connection to secure the protection and enjoyment of the right to life and security of the individual guaranteed under the Covenant.

283. The Committee is concerned that excludable aliens are dealt with by lower standards of due process than other aliens and, in particular, that those who cannot be deported or extradited may be held in detention indefinitely. The situation of a number of asylum-seekers and refugees is also a matter of concern to the Committee.

284. The Committee does not share the view expressed by the Government that the Covenant lacks extraterritorial reach under all circumstances. Such a view is contrary to the consistent interpretation of the Committee on this subject, that, in special circumstances, persons may fall under the subject-matter jurisdiction of a State party even when outside that State's territory.

285. The Committee is concerned about conditions of detention of persons deprived of liberty in federal or state prisons, particularly with regard to planned measures that would lead to further overcrowding of detention centres. The Committee is also concerned at the practice that allows male prison officers access in women's detention centres and has led to serious allegations of sexual abuse of women and the invasion of their privacy. The Committee is particularly concerned at the conditions of detention in certain maximum security prisons, which are incompatible with article 10 of the Covenant and run counter to the United Nations Standard Minimum Rules for the Treatment of Prisoners and the Code of Conduct for Law Enforcement Officials.

286. The Committee is concerned that, in some states, non-therapeutic research may be conducted on minors or mentally-ill patients on the basis of surrogate consent in violation of the provisions in article 7 of the Covenant.

287. The Committee is concerned at the serious infringement of private life in some states that classify as a criminal offence sexual relations between adult consenting partners of the same sex carried out in private, and the consequences thereof for their enjoyment of other human rights without discrimination.

288. The Committee is concerned about the impact that the current system of election of judges may, in a few states, have on the implementation of the rights provided under article 14 of the Covenant and welcomes the efforts of a number of states in the adoption of a merit-selection system. It is also concerned about the fact that in many rural areas justice is administered by unqualified and untrained persons. The Committee also notes the lack of effective measures to ensure that indigent defendants in serious criminal proceedings, particularly in state courts, are represented by competent counsel.

289. The Committee welcomes the significant efforts made in ensuring to everyone the right to vote but is concerned at the considerable financial costs that adversely affect the right of persons to be candidates at elections.

290. The Committee is concerned that aboriginal rights of Native Americans may, in law, be extinguished by Congress. It is also concerned by the high incidence of poverty, sickness and alcoholism among Native Americans, notwithstanding some improvements achieved with the Self-Governance Demonstration Project.

291. The Committee notes with concern that information provided in the core document reveals that disproportionate numbers of Native Americans, African Americans, Hispanics and single parent families headed by women live below the poverty line and that one in four children under six live in poverty. It is concerned that poverty and lack of access to education adversely affect persons belonging to these groups in their ability to enjoy rights under the Covenant on the basis of equality.

5. Suggestions and recommendations

292. The Committee recommends that the State party review its reservations, declarations and understandings with a view to withdrawing them, in particular reservations to article 6, paragraph 5, and article 7 of the Covenant.

293. The Committee hopes that the Government of the United States will consider becoming a party to the First Optional Protocol to the Covenant.

294. The Committee recommends that appropriate inter-federal and state institutional mechanisms be established for the review of existing as well as proposed legislation and other measures with a view to achieving full implementation of the Covenant, including its reporting obligations.

295. The Committee emphasizes the need for the Government to increase its efforts to prevent and eliminate persisting discriminatory attitudes and prejudices against persons belonging to minority groups and women including, where appropriate, through the adoption of affirmative action. State legislation which is not yet in full compliance with the non-discrimination articles of the Covenant should be brought systematically into line with them as soon as possible.

296. The Committee urges the State party to revise federal and state legislation with a view to restricting the number of offences carrying the death penalty strictly to the most serious crimes, in conformity with article 6 of the Covenant and with a view eventually to abolishing it. It exhorts the authorities to take appropriate steps to ensure that persons are not sentenced to death for crimes committed before they were 18. The Committee considers that the determination of methods of execution must take into account the prohibition against causing avoidable pain and recommends the State party to take all necessary steps to ensure respect of article 7 of the Covenant.

297. The Committee urges the State party to take all necessary measures to prevent any excessive use of force by the police; that rules and regulations governing the use of weapons by the police and security forces be in full conformity with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; that any violations of these rules be systematically investigated in order to bring those found to have committed such acts before the courts; and that those found guilty be punished and the victims be compensated. Regulations limiting the sale of firearms to the public should be extended and strengthened.

298. The Committee recommends that appropriate measures be adopted as soon as possible to ensure to excludable aliens the same guarantees of due process as are available to other aliens and that guidelines be established that would place limits on the length of detention of persons who cannot be deported.

299. The Committee expresses the hope that measures will be adopted to bring conditions of detention of persons deprived of liberty in federal or state prisons in full conformity with article 10 of the Covenant. Legislative, prosecutorial and judicial policy in sentencing must take into account that overcrowding in prisons causes violation of article 10 of the Covenant. Existing legislation that allows male officers access to women's quarters should be amended so as to provide at least that they will always be accompanied by women officers. Conditions of detention in prisons, in particular in maximum security prisons, should be scrutinized with a view to guaranteeing that persons deprived of their liberty be treated with humanity and with respect for the inherent dignity of the human person, and implementing the United Nations Standard Minimum Rules for the Treatment of Prisoners and the Code of Conduct for Law Enforcement Officials therein. Appropriate measures should be adopted to provide speedy and effective remedies to compensate persons who have been subjected to unlawful or arbitrary arrests as provided in article 9, paragraph 5, of the Covenant.

300. The Committee recommends that further measures be taken to amend any federal or state regulation which allow, in some states, non-therapeutic research to be conducted on minors or mentally-ill patients on the basis of surrogate consent.

301. The Committee recommends that the current system in a few states in the appointment of judges through elections be reconsidered with a view to its replacement by a system of appointment on merit by an independent body.

302. The Committee recommends that steps be taken to ensure that previously recognized aboriginal Native American rights cannot be extinguished. The Committee urges the Government to ensure that there is a full judicial review in respect of determinations of federal recognition of tribes. The Self-Governance Demonstration Project and similar programmes should be strengthened to continue to fight the high incidence of poverty, sickness and alcoholism among Native Americans.

303. The Committee expresses the hope that, when determining whether currently permitted affirmative action programmes for minorities and women should be withdrawn, the obligation to provide Covenant's rights in fact as well as in law will be borne in mind.

304. The Committee recommends that measures be taken to ensure greater public awareness of the provisions of the Covenant and that the legal profession as well as judicial and administrative authorities at federal and state levels be made familiar with these provisions in order to ensure their effective application.

K. Ukraine

305. The Committee considered the fourth periodic report of Ukraine (CCPR/C/95/Add.2) at its 1418th to 1420th meetings, on 11 and 12 July 1995, and adopted[17] the following final comments:

1. Introduction

306. The Committee welcomes the fourth periodic report of Ukraine and views with satisfaction the cooperative attitude of the delegation in engaging in a frank and constructive dialogue with the Committee. The Committee appreciates the fact that the report did not conceal difficulties encountered by the State party in implementing the Covenant. However, those difficulties were described in very broad terms and without describing the steps envisaged by the State party to overcome them. Furthermore, the report did not provide sufficient information on the implementation of the Covenant in practice. The additional information provided in the oral replies given by the delegation to the questions posed and comments raised by the Committee members have enabled the Committee to gain a clearer picture of the overall situation in the country, especially with regard to Ukraine's approach to compliance with the obligations undertaken under the Covenant.

2. Factors and difficulties affecting the application of the Covenant

307. The Committee notes that it is necessary to overcome vestiges of the totalitarian past and that much remains to be done to strengthen democratic institutions and respect for the rule of law. In this connection, the Committee notes that the Government's efforts in restructuring the legal system and endeavours to implement better the Covenant have been hampered by lacunae in the national legislation as well as by a continuing resort to a large number of outdated - albeit still in force - laws of the former regime, many of them incompatible with corresponding provisions of the Covenant. The Committee also notes that extremist and discriminatory attitudes are emerging in the country that are not conducive to the full promotion and protection of human rights. In addition, this period of transition to a market-oriented economy has been marked by severe economic and social difficulties.

3. Positive aspects

308. The Committee expresses its satisfaction as to the fundamental and positive changes that have recently taken place in Ukraine. These changes will create a better political, constitutional and legal framework for the full implementation of the rights enshrined in the Covenant.

309. The Committee welcomes the fact that, through the adoption of the Act on the Effect of International Agreements on Ukrainian Territory in December 1991 and of the Act on Ukraine's International Treaties in December 1993, international treaties ratified by Ukraine are now automatically part of the domestic legal order. The recognition by Ukraine of the competence of the Committee to receive and consider communications from individuals under the Optional Protocol to the Covenant and its willingness to adopt appropriate procedures to implement the Committee's views without delay is of particular importance for the effective implementation of the Covenant.

310. The Committee welcomes the many other recent legal developments in Ukraine and the present progress in the transition towards democracy and pluralism. In general, the Committee is encouraged by the adoption of the Act on Provisional Detention in June 1993 and of the Decree of the Ukrainian Cabinet on Programmes for Bringing up to World Standards the Conditions of Detention in January 1994, which take into account the United Nations Standard Minimum Rules for the

Treatment of Prisoners. The Committee also welcomes the adoption of the Acts on the Ukrainian Public Prosecutor's Office in November 1991, the Legal Profession in December 1992, the Status of Judges in December 1992 and the Self-Governance of the Judiciary in February 1994, aimed at strengthening the independent status of the judicial system and improving judicial guarantees for individuals.

311. The Committee also notes the adoption by the Government of Ukraine of the 1991 Act on Freedom of Conscience and Religious Organizations, of the 1993 Acts on Information and on Printed Media, of the 1993 Act on Television and Radio Broadcasting and of the Act on Public Association of Citizens. The adoption by Ukraine of the Act on Environmental Protection in 1991, along with special provisions in the Penal Code establishing liability for the preparation, processing or selling of radiation-contaminated foodstuffs or other products and their accession to the nuclear non-proliferation treaties are also a welcome development.

312. The Committee further notes the adoption by the Supreme Council of Ukraine of the 1991 Declaration of Rights of the Nationalities of Ukraine, which was given legal force through the Act on National Minorities in 1992.

313. The Committee takes note with appreciation of the confirmation by the delegation that victims of past human rights violations are entitled to compensation. It further welcomes the efforts initiated by the Government of Ukraine to encourage and facilitate the return of minorities displaced by the Soviet regime and especially the resettlement in Crimea of the Crimean Tartars.

4. Principal subjects of concern

314. The Committee is concerned by the continuing applicability in Ukraine of a Constitution which does not provide guarantees and recourse procedures in full conformity with the Covenant. Furthermore, it has not been made sufficiently clear during the consideration of the report whether, under the law and in the practice of the courts and administrative authorities, provisions of the Covenant are systematically applied in precedence to a conflicting provision to domestic law.

315. The Committee expresses its concern about actual cases of discrimination against women and, in general, the persistence - in a climate of economic and social difficulties - of gender disparities in practice with regard to such issues as equal pay, the equitable participation of women in the conduct of public affairs and in the economic, social and cultural life of the country. The State party has not yet adopted effective measures to overcome attitudes based on traditional roles which hinder equality between men and women. Additionally, the Committee regrets the high level of family violence within the country and recalls that the Covenant requires States parties to implement measures of protection.

316. The Committee expresses its deep concern about the current trend in Ukraine to impose and carry out an increasing number of death sentences, and about the inhumane circumstances in which those sentences are carried out. It recalls that under article 6 of the Covenant a sentence of death may be imposed only for the most serious crimes.

317. The Committee is concerned that the guarantees contained in articles 7, 9, 10 and 14 of the Covenant are not fully complied with. In particular, it is concerned that torture and ill-treatment of persons committed by members of the

police and other security forces continue to be reported, particularly to the Public Prosecutor's Office. In this regard, it is concerned that the right to personal security may be restricted without any involvement of a judicial body. The Procurator's functions during the investigation process as well as throughout the trial do not ensure the minimum requirements contained in articles 9 and 14 of the Covenant. Furthermore, cases of administrative detention, in particular of vagrants, denial of access of detainees to legal counsel and long periods of pre-trial detention are matters of great concern.

318. The Committee is also concerned at the conditions in places of detention, whether in prisons or curative labour establishments, which do not comply with article 10 of the Covenant or other international standards. Prison overcrowding is a further matter of concern to the Committee.

319. The Committee expresses concern that the independence of the judiciary has not yet been ensured. In this connection, it regrets that the Constitutional Court, which is to be established under the Act on the Constitutional Court of June 1992, has not yet been set up. The Committee is further concerned by the very long delays in the administration of justice, which are not in conformity with the requirements of both articles 9 and 14 of the Covenant, and notes in that regard that the judicial system in Ukraine cannot be efficient until there is a sufficient number of well-trained and qualified judges and lawyers. The absence of special provisions for juvenile offenders is also a matter of concern.

320. The Committee is further disturbed by continuing obstacles to freedom of movement in Ukraine and in particular by the legal provisions that allow for the rejection of passport applications from holders of State secrets. The requirement of exit visas and the persistence of the internal passport are unacceptable and incompatible with article 12 of the Covenant.

321. The Committee expresses its concern that, although Ukraine adopted a domestic refugee law in December 1993, currently no concrete measures have been taken to implement this law, or to establish a refugee determination procedure for asylum-seekers in Ukraine.

322. The Committee expresses concern arising from the information in the report, corroborated by cases brought to its attention, that there are incidents and situations that may be conducive to acts of discrimination on ethnic, gender, religious, linguistic or property grounds. The Committee regrets that appropriate steps have not yet been taken by the authorities to resolve those difficulties and, in particular, to prevent and suppress the advocacy of national, racial or religious hatred in conformity with the requirements of article 20 of the Covenant. This situation is particularly alarming in that it may undermine harmonious relations with minorities. In that regard, the Committee regrets that the definition of minorities under the Declaration of the Rights of the Nationalities of Ukraine does not conform fully with article 27 of the Covenant, which grants protection to persons belonging to all ethnic, religious or linguistic minorities, and not only to those belonging to "national" minorities. Lastly, the Committee notes with regret that measures have not yet been taken to grant automatically Ukrainian citizenship to Crimean Tartars who have returned to Crimea.

5. Suggestions and recommendations

323. The Committee recommends that the constitutional reform presently under way be accelerated in order to ensure the adoption and implementation of the new Constitution and that the text of the Covenant be taken into account in that regard. In drafting new legislation affecting human rights, attention should systematically be paid to the establishment of effective guarantees for the safeguard of civil and political rights. In that regard, the authorities may avail themselves of the advisory services and technical cooperation programmes developed by the Centre for Human Rights.

324. The Committee urges the Government to set up an independent body, such as a human rights ombudsman, to monitor the implementation of the law in conformity with the obligations under the various human rights instruments to which Ukraine is a party, and to receive complaints by individuals.

325. The Committee recommends that the State party review and include information in its next periodic report on the procedures established to ensure compliance with the views and recommendations adopted by the Committee under the first Optional Protocol to the Covenant, also bearing in mind the obligations under article 2 of the Covenant.

326. With respect to the rights of women, the Committee believes that affirmative measures should be taken to strengthen their participation in the political, economic, and social life of the country, as well as positive measures to ensure effective protection against domestic violence.

327. The Committee recommends that Ukraine study measures to limit the categories of crimes punishable by death to the most serious offences, in conformity with article 6 of the Covenant, with a view to its prospective abolition, and to make when appropriate more extensive use of the rights of commutation or pardon.

328. The Committee emphasizes the need for greater control over the police. There should be intensive training and educational programmes in the field of human rights aimed at law-enforcement officials. Steps should be taken to strengthen recourse procedures for victims of police abuse and detained persons. Adequate follow-up to reports of such abuse should be ensured by thorough investigations and appropriate penal and administrative sanctions. Prison conditions should be brought into compliance with article 10 of the Covenant and with the United Nations Standard Minimum Rules for the Treatment of Prisoners.

329. The Committee recommends that, in order to ensure the independence and impartiality of the judiciary, as well as the confidence of the individuals in the proper administration of justice, further steps be taken to speed up and complete the reform process. Measures for juveniles should be appropriate to their needs and status. Furthermore, vigorous efforts should also be made to encourage a culture of independence among the judiciary itself and to establish a well-trained and independent legal profession. A first priority should, for instance, be to adopt a law containing all the safeguards set forth in the Covenant.

330. Existing provisions limiting or restricting the exercise of the right to freedom of movement, including the internal passport requirements, as well as the legal provisions relating to holders of State secrets, should be reviewed to bring the legislation fully in conformity with article 12 of the Covenant.

331. The Committee recommends that Ukraine undertake to implement its domestic refugee law of December 1993 and, in this connection, that it seek assistance and advice from relevant international organizations, including UNHCR.

332. The Committee expresses the wish that vigorous measures will be taken to give full implementation to article 20 of the Covenant.

333. The Committee welcomes the publication of the report in Ukraine and the Government's intention to disseminate the record of the dialogue. It emphasizes that the text of the Covenant and the Optional Protocol should be widely publicized in the languages spoken in Ukraine, so that the public can be made fully aware of the rights enshrined in the provisions of these instruments. It also recommends that education in human rights and democracy be included in school and university curricula and that its comments be widely disseminated and incorporated into the curricula of all human rights training programmes organized for law-enforcement officials and administration officers.

L. Latvia

334. The Committee considered the initial report of Latvia (CCPR/C/81/Add.1/Rev.1) at its 1421st, 1422nd and 1425th meetings, on 12 to 14 July 1995, and adopted[18] the following final comments:

1. Introduction

335. The Committee welcomes the initial report (CCPR/C/81/Add.1/Rev.1) of Latvia and expresses its appreciation to the State party for the open and constructive dialogue with the Committee. However, it notes that, while providing detailed information on prevailing legislation in Latvia, the report does not contain enough information on the way in which the Covenant is implemented in practice. To some extent, the information provided by the delegation and the responses to the questions raised by members of the Committee largely covered these deficiencies and provided the Committee with a better insight into the human rights situation in Latvia.

2. Factors and difficulties affecting the application of the Covenant

336. The Committee notes that it is necessary to overcome vestiges of the totalitarian past and that much remains to be done to strengthen democratic institutions and respect for the rule of law. The Government's efforts in restructuring the legal system and endeavouring to implement better the Covenant have been hampered by lacunae in some existing legislation as well as by continuing resort to a number of outdated laws which are incompatible with corresponding provisions of the Covenant.

337. In consequence of large-scale emigration from and immigration to Latvia in the past, there coexisted in the country, at the time of the renewal of independence, a significantly large proportion of persons belonging to various national minorities. The policy of the Government to establish precise criteria with regard to naturalization and citizenship has raised a number of difficulties that are affecting the application of the Covenant.

3. Positive aspects

338. The Committee expresses its satisfaction as to the fundamental and positive changes that have taken place since Latvia re-established itself as a sovereign State in 1990. These changes will create a better political, constitutional and legal framework for the full implementation of the rights enshrined in the Covenant.

339. Latvia's accession, soon after its renewal of independence on 4 May 1990, to various human rights international instruments, such as the Covenant, confirms the genuine commitment of the State party to guarantee the basic human rights of all individuals. The recognition by Latvia of the competence of the Committee to receive and consider communications from individuals under the first Optional Protocol to the Covenant is of particular importance for the effective implementation of the Covenant.

340. The Committee notes with satisfaction that there has been significant progress in securing civil and political rights in Latvia since the proclamation of the renewal of independence. Particular satisfaction is expressed at the adoption in January 1995 of the National Programme for the Protection and Promotion of Human Rights in Latvia and at the establishment of a Human Rights Council in July 1995.

341. The Committee also notes with satisfaction the elimination of capital punishment as a potential penalty for several types of economic crimes as well as the planned revision of the Criminal Code which should lead to the abolition of the death penalty.

4. Principal subjects of concern

342. The Committee regrets that the Covenant has not been given an overriding status in the Latvian legal order and that the Constitutional Law on the Rights and Obligations of a Citizen and a Person of 10 December 1991 has no constitutional status. Furthermore, the Constitution of 15 February 1922, which was restored in 1993, has not yet been fully amended so as to incorporate all the rights enshrined in the various articles of the Covenant. At the same time, the Committee notes with concern the absence of a body, such as a Constitutional Court, charged with determining, inter alia, the conformity of domestic laws with the provisions of the Covenant and other relevant human rights instruments.

343. The Committee also notes that it was not made sufficiently clear, during the consideration of the report, how the human rights of resident non-citizens are guaranteed, in accordance with article 2, paragraph 1, of the Covenant.

344. The Committee notes with concern that the Latvian legal system has not yet provided for effective mechanisms of investigation in respect of violations of human rights, as required under article 2, paragraph 3, of the Covenant. In the view of the Committee, the need to make effective remedies available to any person whose rights are violated is particularly urgent in respect of the obligations embodied in articles 7, 9 and 10 of the Covenant.

345. The Committee further regrets that the respective functions and mandates of the State Minister on Human Rights and of the newly created Human Rights Council were not clearly described during the discussion and believes that there may be certain overlapping in their activities as well as a lack of effective coordination.

346. While expressing satisfaction at the impending changes in the Criminal Code that are expected to abolish the death penalty in due course, the Committee is concerned that the death penalty can be imposed for crimes that cannot be qualified as the most serious crimes under article 6 of the Covenant.

347. The Committee is concerned that the rights contained in articles 7 and 10 of the Covenant are not fully respected. The Committee is, in particular, concerned at allegations of mistreatment of detainees and at the conditions in places of detention, which do not comply with article 10 of the Covenant or other international standards. The apparent non-separation of accused persons from convicted persons and juveniles from adults is a further matter of concern. The Committee is especially concerned that there do not seem to be clear mechanisms for dealing with complaints of violence by law enforcement authorities and of conditions in detention centres and prisons. The Committee also notes that the judicial system in Latvia will not be able to exercise its functions properly until there is a sufficient number of well-trained and qualified judges and lawyers.

348. With regard to articles 9 and 14 of the Covenant, the Committee is particularly concerned that the new Code of Criminal Procedure has not been enacted. The role of the Prosecutor under the Law on Prosecutor's Supervision, enacted on 19 May 1994, runs counter to the principle of equality of arms in criminal trials and does not protect in a proper way the right to personal security.

349. The Committee is concerned that, as a result of the absence of domestic legislation and procedure governing the treatment of asylum-seekers trying to enter or who have entered Latvia, the Government has resorted to an excessive use of detention and removal of asylum-seekers from the country.

350. While welcoming the attempts at bringing the naturalization and citizenship legislation in conformity with regional human rights instruments, the Committee remains concerned that a significant segment of the population will not enjoy Latvian citizenship owing to the stringent criteria established by the law and the policy deliberately chosen to consider each case on an individual basis and pursuant to a timetable calculated to delay the naturalization process for many years. In the view of the Committee, the legislation still contains criteria of exclusion that give room to discrimination under articles 2 and 26 of the Covenant and raise difficulties under articles 13 and 17 of the Covenant.

5. Suggestions and recommendations

351. The Committee recommends that a review of the existing legal framework for the protection of human rights in the State party be undertaken in order to clarify the status of international human rights treaties, particularly the Covenant, in the domestic legal hierarchy. In this regard, the Committee emphasizes the importance of giving the Covenant an overriding status in the national legal order. Regarding the actual application of the Covenant, the Committee requests the State party to indicate in its second periodic report any possible instances where the Covenant was directly invoked before the courts, as well as about the results of any such proceedings.

352. The Committee recommends that the State party review and include information in its next periodic report on the procedures established to ensure compliance with the views and recommendations adopted by the Committee under the

first Optional Protocol to the Covenant, also bearing in mind the obligations under article 2 of the Covenant.

353. The Committee urges the State party to take appropriate measures to provide effective and efficient remedies for all persons whose rights under the Covenant have been violated. In that regard, the Committee requests the State party to ensure due coordination between existing and planned institutions aiming at protecting human rights. The Committee also recommends that measures be taken to ensure greater public awareness of the remedies available to individuals, including the provisions of the first Optional Protocol.

354. The Committee would welcome information on the situation of women, to be provided in the second periodic report, and recommends that the State party take appropriate steps to educate the population of Latvia on the equality of men and women.

355. While strongly endorsing the steps envisaged towards the abolition of the death penalty in Latvia, the Committee recommends that a firm policy be adopted aiming at commuting, during the interim period, all death sentences to life imprisonment.

356. The Committee recommends that the State party take any necessary measures to ensure that the conditions of detention of persons deprived of their liberty comply fully with article 10 of the Covenant, as well as the United Nations Standard Minimum Rules for the Treatment of Prisoners.

357. The Committee emphasizes the need for greater control over the police, particularly in the context of the recent authoritarian past from which Latvian society is emerging. Intensive training and education programmes in the field of human rights for law enforcement officials as well as officials of the correctional service are recommended. Steps should be taken to institute effective recourse procedures for victims of police abuse and detained persons. Adequate publicity should be given to pronounced administrative and penal sanctions.

358. The Committee recommends that, in order to ensure the independence and impartiality of the judiciary, as well as the confidence of the individuals in the proper administration of justice, further steps be taken to speed up and complete the reform process. Further vigorous efforts should also be made to encourage a culture of independence among the judiciary itself.

359. The Committee recommends that the Government of Latvia take steps to adopt domestic legislation governing the treatment of refugees and asylum-seekers in compliance with the Covenant and international refugee law. In this regard, the Committee further recommends that the Government of Latvia seek assistance from relevant international organizations, including UNHCR. The Committee also recommends that the Latvian Government consider acceding to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

360. The Committee recommends that the State party take all necessary measures to guarantee that the citizenship and naturalization legislation facilitate the full integration of all permanent residents of Latvia, with a view to ensuring compliance with the rights guaranteed under the Covenant, in particular with articles 2 and 26.

361. The Committee recommends that the Covenant, the Optional Protocol and the Committee's comments be widely disseminated among the Latvian public.

Additionally, the Committee recommends that human rights education be provided in school at all levels and comprehensive human rights training be provided to judges, lawyers, law enforcement officers and other persons involved in the administration of justice. In this regard, the Committee suggests that the State party avail itself of the technical cooperation services of the Centre for Human Rights, and seek the cooperation of the relevant non-governmental organizations.

M. Russian Federation

362. The Committee considered the fourth periodic report of the Russian Federation (CCPR/C/84/Add.2) at its 1426th to 1429th meetings, on 17 and 18 July 1995, and adopted[16] the following comments:

1. Introduction

363. The Committee welcomes the fourth periodic report of the Russian Federation and views with satisfaction its dialogue with the delegation, particularly the delegation's willingness to engage in a frank discussion with the Committee and the detail in which its written and additional oral questions were addressed. The Committee regrets that, while the report was mainly drafted on the basis of legal measures enacted or under consideration, insufficient information was provided regarding the actual enjoyment of some of the rights guaranteed in the Covenant. The Committee appreciates that this situation was partly remedied through the oral responses to the Committee's questions, which allowed it to obtain a clearer view of the overall situation in the State party.

2. Factors and difficulties affecting the application of the Covenant

364. The Committee notes that it is necessary to overcome vestiges of the totalitarian past and that much remains to be done to strengthen democratic institutions and respect for the rule of law. This has created a legal vacuum in certain areas, in which the principles set forth in the Constitution are not implemented by corresponding laws and regulations. The Committee notes that the enactment of new laws is being undertaken by the Government but their consideration by two Chambers of the Federal Assembly prior to promulgation is generally a slow process.

365. The Committee is aware of economic difficulties facing the State party, which inevitably affect the application of the Covenant.

3. Positive aspects

366. The Committee expresses its satisfaction as to the fundamental and positive changes that have recently taken place in the Russian Federation. These changes will create a better political, constitutional and legal framework for the full implementation of the rights enshrined in the Covenant.

367. The Committee welcomes the new Constitution of 1993, which gives legal recognition to the concept of human rights and freedoms of the individual. The Committee considers that chapter 2 of the Constitution, which enumerates the

rights and liberties of the individuals, conforms to many of the basic rights provided under the Covenant.

368. The Committee welcomes the provisions of article 15, paragraph 4, of the Constitution, which, together with the limiting provision of article 125, paragraph 6, establishes that international treaties, including the Covenant, are part of the Russian legal system and superior to domestic law. It further welcomes the inclusion of article 17, paragraph 1, which stipulates that the basic rights and liberties, in conformity with the commonly recognized principles and norms of international law, shall be recognized and guaranteed by the State party under the Constitution, the recognition in the Constitution of the right to apply to international bodies when domestic remedies are exhausted and the written and oral affirmations that the provisions of the Covenant are directly invocable in domestic courts of law.

369. In this context, the Committee also welcomes the fact that the Russian Federation is party to the Optional Protocol to the Covenant.

370. The Committee welcomes the progress made towards democracy since the consideration of the third periodic report. It also welcomes the promulgation of a number of legal instruments aimed at guaranteeing human rights for all persons in the territory of the State party, including the new Civil Code and Criminal Code. It further welcomes the draft law aimed at a comprehensive reform of the judicial process and the Code of Criminal Procedures currently in the drafting stage and notes with appreciation that the right of all persons whose rights are violated to have access to judicial recourse has been legally established.

371. The Committee welcomes the establishment of several bodies charged with the protection of human rights, including the Office of the Human Rights Commissioner under the State Duma and the Presidential Human Rights Commission, as well as the newly established Commission for Human Rights of the Commonwealth of Independent States.

372. The Committee welcomes the Government's assurances that a systematic review of persons placed in psychiatric facilities under previous regimes will be carried out and trusts that all those found to be placed in such facilities without due cause will be released.

373. The Committee welcomes the special legislation enacted to provide compensation to victims of the events of October 1993.

4. Principal subjects of concern

374. The Committee is concerned that the profound legislative changes taking place within the State party have not been matched by the actual protection of human rights at the implementation level. Specifically, it regrets that many of the rights established under the Constitution have not been put into effect through the enactment of implementing laws and regulations and that the relationship of the various bodies entrusted with the protection of human rights has not been clearly defined. In this connection, it regrets that the responsibilities of the Human Rights Commissioner, although understood to be broad in nature and to include the power to investigate complaints of human rights violations, to bring cases to the Constitutional Court whenever Constitutional rights are infringed and to take legislative initiatives, are not specified in the Constitution and have not yet been legally defined in

subsequent legislation. In addition, the responsibilities of the Procurator's Office with respect to the protection of human rights would appear to coincide in many respects with those of the Human Rights Commissioner. In relation to these bodies, it is not clear why the Presidential Human Rights Commission operating directly under the President, who is personally responsible as guarantor of human rights under the Constitution, is empowered only with recommendatory functions, or what mechanisms are in place to ensure that presidential decrees conform with the Covenant.

375. The Committee is concerned that, despite guarantees of equality in the Constitution and in labour legislation, the de facto situation of women is one of continuing inequality. The failure to ensure equal remuneration for work of comparable worth and the persistence of attitudes and practices which impose child-rearing and other domestic responsibilities entirely on women contribute to this inequality and to discrimination in the workplace. The Committee is especially alarmed at the extent of rape and domestic violence and the inadequate efforts made by the authorities to deal with this problem. It is also alarmed at the high incidence of unemployment among women.

376. Although the Committee notes that the draft Criminal Code before the Federal Assembly would reduce the number of crimes that may result in the imposition of the death penalty, it is still concerned at the wide range of crimes still punishable by such penalty. Moreover, the Committee notes that while the number of persons actually executed has declined dramatically since 1993, sentencing continues, which has resulted in a large and growing number of persons on death row.

377. The Committee expresses deep concern over the practice of pre-trial detention and over the fact that temporary detention has been extended from 10 to 30 days in certain cases. It is concerned by the extent of the Procurator's competence to decide on matters relating to arrest or detention which cannot be challenged by the person concerned before a court. Under article 9, paragraph 3, of the Covenant, the detention of persons before they are granted a trial should not be the norm and, when it occurs, persons so detained should be granted a trial within a reasonable time or be released. The Committee is concerned that pre-trial detention is practised, not only in cases of serious criminal charges but more so on misdemeanour charges and frequently for unreasonably long periods of time, and that no effective mechanism exists for monitoring such detention.

378. The Committee further expresses grave concern over the lack of a monitoring mechanism for penitentiary facilities to ensure humane treatment of detainees and prisoners. In this regard, it deplores the cruel, inhumane and degrading conditions that persist in many detention centres and penitentiary facilities and condemns the use of food deprivation as punishment.

379. The Committee expresses concern about the lack of independence and efficiency of the judiciary and the long delays in the administration of justice, which do not conform with the requirements of both articles 9 and 14 of the Covenant, and notes in that regard that the judicial system in the Russian Federation cannot be effective to ensure protection of rights until there is a sufficient number of well-trained and qualified judges and lawyers.

380. The Committee is concerned that actions may continue that violate the right to protection from unlawful or arbitrary interference with privacy, family, home or correspondence. It is concerned that the mechanisms to intrude into private telephone communication continue to exist, without a clear legislation setting

out the conditions for legitimate interferences with privacy and providing for safeguards against unlawful interferences.

381. Although federal law has provided for the abolition of the propiska (residence permit) system, the Committee is concerned that at regional and local levels, the system is still applied in practice, thus violating not only the Constitution, but also article 12 of the Covenant. It expresses further concern that the most important legal restriction on the right to leave the country is still cast in terms of a State secret. This does not correspond with the requirements of article 12, paragraph 3, of the Covenant and the Committee deplores, in that regard, the resistance to date in bringing the legislation in conformity with the Covenant. The Committee further regrets that all individuals not having yet performed their national service are excluded in principle from enjoying their right to leave the country.

382. The Committee is concerned that conscientious objection to military service, although recognized under article 59 of the Constitution, is not a practical option under Russian law and takes note in this regard of the draft law on alternative service before the Federal Assembly. It expresses its concern at the possibility that such alternative service may be made punitive, either in nature or in length of service. The Committee is also seriously concerned at the allegations of widespread cruelty and ill-treatment of young conscript-soldiers.

383. The Committee is concerned at reports of growing numbers of homeless and abandoned children in need of measures of protection.

384. The Committee expresses its concern that the limited definition of the term "national minorities", which serves as the basis for much of the legislation in the State party concerning the rights of persons belonging to minorities, does not give protection to all persons referred to in article 27 of the Covenant. It is also concerned at reports of harassment shown towards persons belonging to minority groups from the Caucasus region, in the form of searches, beatings, arrests and deportation.

385. The Committee deeply regrets the lack of familiarity of law enforcement and prison officers with the guarantees provided in the new Constitution and with international human rights standards under the Covenant.

386. The Committee expresses concern over the jurisdiction of the military courts in civil cases. Persons detained by members of the armed forces are said to be able to raise complaints before the Military Procurator's Office in charge of the detention centre where they were held. This would appear to create a situation in which the army is entrusted with the judgement and sentencing of the crimes committed by its own members. The Committee is concerned that such a situation may cause miscarriages of justice, particularly in the light of the Government's acknowledgement that the army, even at the highest levels, is not familiar with international human rights law, including the Covenant.

387. The Committee expresses deep concern at the high number of refugees following the events that occurred in North Ossetia in 1992 and at the difficult conditions faced by these displaced persons in the neighbouring Republic of Ingushetia, as well as at the numerous incidents that occurred during their attempts to return to their homeland.

388. With reference to the specific situation in Chechnya, the Committee expresses concern that article 4 of the Covenant, which specifies the provisions

that are non-derogable even in times of public emergency, has not been complied with. It maintains that this article is applicable to the situation in Chechnya, where the use of weapons by combatants has led to the loss of life and deprivation of freedom of large numbers of persons, regardless of the fact that a state of emergency has not been formally declared.

389. The Committee deplores the excessive and disproportionate use of force by Russian forces in Chechnya, indicating grave violation of human rights. It further deplores the fact that no one has been made responsible for the inhumane treatment of prisoners and other detained persons, that investigations on charges of human rights violations by Russian forces, including killing of civilians, have so far been inadequate, that civilian installations such as schools and hospitals were destroyed by government forces, and that a large number of civilians have been killed or displaced as a consequence of the destruction of their homes.

390. The Committee expresses deep concern about the large number of reported cases of torture, ill treatment of the person and arbitrary detention in "reception centres" or "filtration camps", which were originally established to determine the identities of captured combatants but are reported to accommodate large numbers of civilians as well. It deplores the maltreatment of detainees in these centres and is concerned that the International Committee of the Red Cross (ICRC) has not been given access to all such camps.

391. The Committee is concerned that, as a result of the violent excesses of recent developments in Chechnya, the level of confidence of the people in the reconstruction efforts by the local authorities and the attempts to bring relief to human rights violations is extremely low.

5. Suggestions and recommendations

392. The Committee recommends that the relationship between the various bodies charged with the protection of human rights be clearly defined and coordinated and that the existence and functions of these bodies be widely publicized. The Committee further recommends that a mechanism be clearly established to ensure conformity of all presidential decrees and laws with the provisions of the Covenant and other international human rights instruments to which the State is party.

393. The Committee recommends that the State party review and include information in its next periodic report on the procedures established to ensure compliance with the views and recommendations adopted by the Committee under the first Optional Protocol to the Covenant, also bearing in mind the obligations under article 2 of the Covenant.

394. The Committee recommends that greater efforts be made to collect information on the situation of women and the effects on them of the structural political, economic and social changes taking place. On this basis, the Government should initiate or strengthen programmes aimed at providing assistance to women in difficult circumstances, including unemployed women, victims of domestic violence and victims of rape, with a view to ensuring their equality before the law and the equal protection of the law. In particular, it should consider allocating responsibility for that purpose to an appropriate high-level governmental body.

395. The Committee urges the Government to reduce substantially the number of crimes for which the death penalty may be imposed, in accordance with article 6 of the Covenant, with a view to its eventual elimination.

396. The Committee recommends that the treatment of persons deprived of their liberty, whether in detention centres or in penitentiary facilities, be effectively monitored. In this connection, it strongly recommends the adoption of new rules and regulations that comply fully with articles 7, 9, 10 and 14 of the Covenant and the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and that the texts of all prison rules and orders and international norms on prison administration be made public and accessible. The Committee further recommends that priority be given to the establishment of the Visitors' Committee for the correctional institutions of the Federation and that legislation on the judicial review of arrest and detention be urgently passed in compliance with article 9, paragraph 3, of the Covenant, and article 22, paragraph 2, of the Constitution. It urges that the Government should refrain from placing first-time, non-violent and petty offenders in detention centres, and give consideration to various other practical measures designed to reduce the overcrowding of pre-trial detention centres, particularly the greater use of release pending trial. It also calls for an immediate end to the practice of food deprivation as punishment in prisons and encourages the Government's initiatives to institute alternative forms of punishment.

397. The Committee stresses the need for a prompt enactment of the legislation on the judiciary and urges that this legislation fully incorporate the essential guarantees for the independence of the judiciary, including the United Nations Basic Principles on the Independence of the Judiciary. The Committee recommends that efforts be made to make the Covenant and other international human rights norms as widely known as possible, particularly among the authorities invested with the administration of justice, law enforcement and prison officers but also among the general public. It recommends that the State party avail itself of the technical cooperation services of the Centre for Human Rights.

398. The Committee recommends that the abolition of the propiska system be carried out all over the country without exceptions. Further steps should be taken to bring the law concerning the right to leave the country in full line with the State party's obligations under article 12, paragraphs 2 and 3, of the Covenant and, in particular, to remove restrictions to knowledge of State secrets. The Committee urges that all regional and local authorities be made to comply with the Federal policy of abolishing the propiska system (i.e., the system of "internal passes" or "passports").

399. The Committee urges that legislation be passed on the protection of privacy, as well as that strict and positive action be taken to prevent violations of the right to protection from unlawful or arbitrary interference with privacy, family, home or correspondence.

400. The Committee urges that stringent measures be adopted to ensure an immediate end to mistreatment and abuse of army recruits by their officers and fellow soldiers. It further recommends that every effort be made to ensure that reasonable alternatives to military service be made available that are not punitive in nature or in length of service. It urges that all charges brought against conscientious objectors to military service be dropped.

401. The Committee recommends that national legislation be amended to reflect the broad concept of minorities contained in articles 2, 26 and 27 of the

Covenant, which prohibit discrimination on the basis of race, colour, sex, opinion or other status, and further protect the rights not only of "national minorities" but also of ethnic, religious and linguistic minorities.

402. The Committee urges that appropriate and effective measures be adopted to enable all persons displaced as a consequence of the events that occurred in North Ossetia in 1992 to return to their homeland.

403. The Committee firmly urges that the serious violations of human rights that occurred and continue to occur in Chechnya be vigorously and immediately investigated, the perpetrators punished and the victims compensated. It urges the Government to ensure that all persons held in detention are held for legitimate cause, for a reasonable period of time and under humane conditions, in conformity with the State party's obligations under the Covenant.

404. The Committee, noting with appreciation the Government's assurances that ICRC will be granted access to all detention camps, urges that such access be granted immediately in the region of Chechnya and neighbouring republics, to allow ICRC not only to monitor the treatment of detainees but also to provide supplies and services.

405. The Committee recommends that, in order to address the lack of confidence in the local government authorities, the Government consider inviting a greater international presence, including from the Centre for Human Rights, to assist the Special Multilateral Commission established to investigate recent events in Chechnya in improving the effectiveness of human rights investigations and ensuring fairness of trials until such time as the judiciary is functioning properly. Such a measure would make clear that the Government is committed to ending human rights violations both by submitting itself to international scrutiny and by drawing on international expertise toward this end.

406. The Committee urges that adequate measures be adopted to alleviate the conditions of all displaced persons following the fighting in Chechnya, including measures aimed at facilitating their return to their towns and villages.

407. The Committee recommends that education in human rights be included in school and university curricula and that its comments be widely disseminated and incorporated into the curricula of all human rights training programmes organized for law-enforcement officers and administration officials.

N. United Kingdom of Great Britain and Northern Ireland

408. The Committee considered the fourth periodic report of the United Kingdom of Great Britain and Northern Ireland (CCPR/C/95/Add.3) at its 1432nd, 1433rd and 1434th meetings, on 20 and 21 July 1995, and adopted[19] the following final comments:[20]

1. Introduction

409. The Committee expresses its appreciation to the State party for its detailed and exhaustive report, which largely complies with the Committee's guidelines, although regret is expressed concerning the failure to address adequately issues properly arising under article 26 of the Covenant. The high level of competence of the delegation that presented the report is to be

acknowledged, as is their willingness to offer thorough and helpful answers to the wide range of questions put by members. The Committee particularly appreciates the frank acknowledgement by the delegation of those legal issues regarding which the Government of the United Kingdom is still in disagreement with views of the Committee and for their willingness to engage in dialogue with regard to those issues. In this context, the delegation indicated that it would present written observations setting out the view of the Government on the Committee's general comment No. 24 (52) on issues relating to reservations made upon ratification or accession to the Covenant or to the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant.[21] It is the view of the Committee that the exchange of views with the State party has been particularly fruitful and constructive.

410. The detailed information submitted by a wide range of non-governmental organizations has not only greatly assisted the Committee but is also a tribute to the democratic nature of United Kingdom society. These organizations play an essential role in furthering the protection of human rights in the country.

2. Factors and difficulties affecting the implementation of the Covenant

411. With regard to all parts of the United Kingdom other than Northern Ireland, the Committee finds that there are no significant factors or other difficulties that should prevent the effective implementation of the Covenant by the Government. With regard to Northern Ireland, the Committee notes that, despite the recent cease-fire and political negotiations, the lack of a final political solution and the continuation of emergency legislation present difficulties affecting full implementation of the Covenant.

3. Positive aspects

412. The Committee warmly welcomes and encourages the initiation of the peace process in Northern Ireland. It acknowledges the historic significance of the recent initiatives and of their importance for the promotion and protection of human rights, including the right of self-determination.

413. While the Committee does not agree with some of the positions of the State party concerning the implementation of the Covenant, it acknowledges the vibrant climate of debate in the United Kingdom, which ensures that issues of human rights are comprehensively discussed and in which it is clear that all points of view are seriously considered.

414. The Committee acknowledges the efforts of the State party to combat racial and ethnic discrimination. The programmes to promote the position of racial and ethnic minorities in society are welcomed, including relevant changes to the entry examination system for the police force, proposed similar changes for the prison service, the activities of the Commission for Racial Equality, and the attention paid to race and ethnic sensitivity training in the training programmes for the judiciary.

415. Improvements in the prison system are welcomed. The Committee welcomes the improvements in prison sanitation conditions and the steps taken in addressing problems of overcrowding within prisons. The Government is to be commended for introducing a system whereby participation by prisoners in programmes of education is remunerated in the same way as engagement in prison labour. The

statement by the delegation that accommodation of prisoners in cells at police stations has ceased from June 1995 is also to be welcomed. The appointment of a Prisons Ombudsman by the Government in April 1994 is highly appreciated.

4. Principal subjects of concern

416. The Committee notes that the legal system of the United Kingdom does not fully ensure that an effective remedy is provided for all violations of the rights contained in the Covenant. The Committee is concerned by the extent to which implementation of the Covenant is impeded by the combined effects of the non-incorporation of the Covenant into domestic law, the failure to accede to the first Optional Protocol and the absence of a constitutional bill of rights.

417. The Committee also regrets the decision of the State party not to withdraw any of its reservations under the Covenant.

418. It is the view of the Committee that the powers under the provisions permitting infringements of civil liberties, such as of extended periods of detention without charge or access to legal advisers, entry into private property without judicial warrant, imposition of exclusion orders within the United Kingdom, etc., are excessive. Note is taken of the Government's own admission that conditions at the Castlereagh detention centre in Northern Ireland are unacceptable and concern is therefore expressed at the Government's admission that it has not decided definitively to close the facility. The Committee is also disturbed by reports of the continuation of the practice of strip searching male and female prisoners in the context of the low security risk that now exists and in view of the existence of adequate alternative search techniques.

419. Despite the recent improvements in prison conditions in the United Kingdom, the Committee is still disturbed by the high number of suicides of prisoners, especially among juveniles.

420. The Committee is concerned that, notwithstanding the establishment in the United Kingdom of mechanisms for the external supervision of investigations of incidents in which the police or military are allegedly involved, especially incidents that result in the death or wounding of persons, as the investigations are still carried out by the police, they lack sufficient credibility.

421. The Committee notes with concern that members of some ethnic minorities, including Africans and Afro-Caribbeans, are often disproportionately subjected to stop and search practices that may raise doubts under the non-discriminatory provisions of the Covenant, particularly its articles 3 and 26.

422. The treatment of illegal immigrants, asylum-seekers and those ordered to be deported gives cause for concern. The Committee observes that the incarceration of persons ordered to be deported and particularly the length of their detention may not be necessary in every case and it is gravely concerned at incidences of the use of excessive force in the execution of deportation orders. The Committee also notes with concern that adequate legal representation is not available for asylum-seekers effectively to challenge administrative decisions.

423. The Committee is concerned that the practice of the State party in contracting out to the private commercial sector core State activities which involve the use of force and the detention of persons weakens the protection of

rights under the Covenant. The Committee stresses that the State party remains responsible in all circumstances for adherence to all articles of the Covenant.

424. The Committee notes with concern that the provisions of the Criminal Justice and Public Order Act of 1994, which extended the legislation originally applicable in Northern Ireland, whereby inferences may be drawn from the silence of persons accused of crimes, violates various provisions in article 14 of the Covenant, despite the range of safeguards built into the legislation and the rules enacted thereunder.

425. The Committee is concerned at the levels of support offered for the protection of cultural and ethnic diversity within the United Kingdom. The Committee further notes with concern that many persons belonging to minorities frequently feel that acts of racial harassment are not pursued by the competent authorities with sufficient rigor and efficiency. The Committee also regrets the lack of success in the adequate recruitment of ethnic minorities into the police. It further believes that much remains to be done to effect changes in public attitudes and to combat and overcome racism.

426. The Committee regrets that corporal punishment may still be permitted in certain circumstances in independent schools.

5. Suggestions and recommendations

427. The Committee strongly recommends that the State party take urgent steps to ensure that its legal machinery allows for the full implementation of the Covenant. Accordingly, it is urged to examine the need to incorporate the Covenant into domestic law or to introduce a bill of rights under which legislative or executive encroachment on Covenant rights could be reviewed by the courts. It should also reconsider its current position as to accession to the first Optional Protocol.

428. The State party is recommended to review the reservations which it has made to the Covenant.

429. In the context of the elaboration of a peace settlement for Northern Ireland, the Committee recommends that further concrete steps be taken so as to permit the early withdrawal of the derogation made pursuant to article 4 and to dismantle the apparatus of laws infringing civil liberties which were designed for periods of emergency. It also recommends that specific efforts be made to enhance in Northern Ireland confidence in the administration of justice by resolving outstanding cases and by putting in place transparently fair procedures for the independent investigation of complaints. The Committee further recommends that the Castlereagh detention centre be closed as a matter of urgency.

430. Given the significant decline in terrorist violence in the United Kingdom since the cease-fire came into effect in Northern Ireland and the peace process was initiated, the Committee urges the Government to keep under the closest review whether a situation of "public emergency" within the terms of article 4, paragraph 1, of the Covenant still exists and whether it would be appropriate for the United Kingdom to withdraw the notice of derogation that it issued on 17 May 1976, in accordance with article 4 of the Covenant.

431. The State party should ensure that all those who are involved in the detention of prisoners be made fully aware of the international obligations on

the State party concerning the treatment of detainees, including the United Nations Standard Minimum Rules for the Treatment of Prisoners.

432. The Committee recommends that the Criminal Justice and Public Order Act of 1994 and the equivalent legislation in Northern Ireland be reviewed in order to ensure that the provisions that allow inferences to be drawn from the silence of accused persons do not compromise the implementation of various provisions in article 14 of the Covenant.

433. The State party is urged to take further action to tackle the remaining problems of racial and ethnic discrimination and of social exclusion. A concerted campaign is called for to address issues of research, juvenile and adult education, recruitment policies for the public and private sectors, legislative initiative and law enforcement. Similarly forceful action is needed to ensure that women play an equal role in society and that they enjoy the full protection of the law. Law enforcement officers, the judiciary and the legal profession should receive information and education to ensure that laws that protect women from violence are fully enforced and that the interpretation of laws, such as those relating to the doctrine of provocation, does not unfairly discriminate against women. All public officials should be made fully cognizant of the programmes of action and receive guidance to ensure that their actions always serve to support and promote the stated aims.

434. The Committee recommends that corporal punishment administered to privately funded pupils in independent schools be abolished.

435. The Committee recommends that the State party give wide publicity to the Covenant, to its report and the reporting procedure. It recommends that these comments and information about the dialogue with the Committee be distributed to interested non-governmental groups and the public at large.

O. Sri Lanka

436. The Committee considered the third periodic report of Sri Lanka (CCPR/C/70/Add.6 and HRI/Core/1/Add.52) at its 1438th to 1440th meetings, on 24 and 25 July 1995, and adopted[22] the following final comments:

1. Introduction

437. The Committee appreciates the opportunity to resume its dialogue with the State party. It regrets, however, that the State party's report was not satisfactory in that it failed to provide detailed information on the actual implementation in practice of the provisions of the Covenant. Moreover, the Committee, while welcoming the updated additional information prepared by the Government and presented to the Committee, notes that the lateness of its submission did not allow for wide distribution, including its availability in all the working languages of the Committee. Notwithstanding this point, the Committee wishes to express its gratitude to the delegation for the supplementary information it provided orally in answer to both the written and oral questions posed by members of the Committee.

2. Factors and difficulties affecting the implementation of the Covenant

438. The Committee recognizes and appreciates the firm commitment of the Government to a durable and peaceful solution to the conflict in the north and east of the country. In view of the considerable efforts undertaken by the Government to initiate and bring peace to the island, the Committee deeply regrets the breakdown of the negotiations and the resumption of armed conflict. The return of hostilities has given rise to serious violations of human rights on both sides, thus adversely affecting the application of the Covenant.

3. Positive aspects

439. The Committee welcomes the initiatives being undertaken by the Government to further the protection and promotion of human rights. In this respect the Committee notes that a package of constitutional reforms is in the process of preparation. The Committee notes that draft proposals are currently under consideration for establishing a new procedure for direct petitioning to the Supreme Court in the case of the infringement of fundamental rights and for broadening the scope of local standings in such cases so as to permit a non-governmental organization to file a petition before the Supreme Court.

440. The Committee further welcomes the enactment of Parliamentary Commissioner for Administration (Amendment) Act No. 26 of 1994, which provides for more direct public access to the Ombudsman. In addition, the Committee notes that the final report by the Committee appointed to inquire into matters relating to persons detained under the Prevention of Terrorism Act and the Emergency Regulations has recommended the immediate revocation of detention orders relating to 140 persons whom the Attorney General has decided not to prosecute. The appointment of a Commission to inquire into election-related violence is also noted.

441. The Committee expresses its satisfaction at the Government's stated policy of not implementing death sentences and that corporal punishment as a penalty has been suspended for the last 10 years.

442. The Committee notes with satisfaction the important role being played by non-governmental organizations in Sri Lanka in contributing to the reform of laws protecting human rights, for example with respect to the recent amendment of regulations under section 5 of the Public Security Ordinance, by which members of the armed forces and the police have been directed to issue "arrest receipts" even in the case where such information has not been requested by the interested parties, such as family members.

443. The Committee welcomes the recent adoption of an Act establishing the National Human Rights Commission of Sri Lanka. It also welcomes the establishment of the Human Rights Advisory Group.

444. The Committee expresses its appreciation at the efforts undertaken to include human rights education within the curricula of secondary schools and higher educational establishments, and that human rights training programmes are being organized for the security forces.

4. Principal subjects of concern

445. The Committee considers that the domestic legal system of Sri Lanka contains neither all the rights set forth in the Covenant nor all the necessary safeguards to prevent their restriction beyond the limits established by the Covenant. It notes also that the Government does not appear to be considering the incorporation of all Covenant rights into domestic law or the ratification of the Optional Protocol; individuals are thus unable to invoke all the rights conferred under the Covenant before national courts or before the Human Rights Committee.

446. The Committee is of the opinion that the time-limit of two years proposed in the draft new Constitution for challenging the validity of enacted legislation with the Constitution is a matter of serious concern. Equally, the Committee expresses its concern with respect to the provisions of article 16 (1) of the Constitution, which permits all existing laws to remain valid and operative notwithstanding any inconsistency with the Constitution's provisions relating to fundamental rights.

447. With regard to the recent establishment of various mechanisms for protecting and promoting human rights, the Committee appreciates the undertaking of these initiatives but remains concerned as to whether sufficient attention is being given to the coordination of the work of the respective committees, commissions and the Human Rights Task Force so as to avoid any duplication of efforts and thus maximize the effectiveness of their work.

448. The Committee is concerned that the derogation of rights under the various emergency laws and regulations may not be in full compliance with the requirement of the provisions of article 4, paragraph 2, of the Covenant. It is further concerned that courts do not have the power to examine the legality of the declaration of emergency and of the different measures taken during the state of emergency. The Committee emphasizes that the obligations assumed by Sri Lanka as a State party to various international instruments must be respected even in times of states of emergency.

449. With reference to article 6 of the Covenant, the Committee is concerned that under Sri Lankan law, the death penalty may be imposed for crimes such as abetting suicide, drug-related offences, and certain offences against property. Some of these offences do not appear to be the most serious offences under article 6 of the Covenant.

450. The Committee is seriously concerned about the information received of cases of loss of life of civilians, disappearances, torture, and summary executions and arbitrary detention caused by both parties in conflict. The Committee notes with particular concern that an effective system for the prevention and punishment of such violations does not appear to exist. In addition, concern is expressed that violations and abuses allegedly committed by police officers have not been investigated by an independent body, and that frequently the perpetrators of such violations have not been punished. The Committee notes that this may contribute to an atmosphere of impunity among the perpetrators of human rights violations and constitute an impediment to the efforts being undertaken to promote respect for human rights.

451. With respect to the functions of the three Presidential Commissions of Inquiry into Involuntary Removals and Disappearances, the Committee is concerned that the Commissions are not mandated to inquire into such human rights

violations allegedly committed between 1984 and 1988 nor into summary executions.

452. The Committee is concerned that the undetermined detention which may be ordered by the Secretary of the Ministry of Defence violates the Covenant, particularly when such detention can be challenged only one year after detention. In view of this, the Committee remains concerned about the effectiveness of the habeas corpus remedy in respect of those arrested under the Prevention of Terrorism Act.

453. The Committee is concerned that the rights under article 10 of the Covenant of persons deprived of their liberty in prisons and other places of detention are not fully respected. It regrets that conditions in places of detention other than prisons are not regulated by law and that prisons and other places of detention are not regularly visited by magistrates or other independent bodies.

454. With respect to the independence of the judiciary, the Committee expresses its concern about the procedure set forth under article 107 of the Constitution read with standing orders made by Parliament.

455. The low age of criminal responsibility and the stipulation within the Penal Code by which a child above 8 years of age and under 12 years of age can be held to be criminally responsible on the determination by the judge of the child's maturity of understanding as to the nature and consequence of his or her conduct are matters of profound concern to the Committee.

456. The provisions of the Special Presidential Commissions of Inquiry Act which permit the acceptance of evidence otherwise inadmissible in a court of law and which stipulate that any decision adopted by a Commission established under the Act is final and conclusive and may not be called into question by any court and tribunal are matters of serious concern to the Committee in view of the fact that the findings of these Commissions can lead to a penalty of civic disability being imposed by Parliament on those subject to an investigation.

457. The Committee is also concerned that article 15 (2) of the Constitution allows the right to freedom of expression to be restricted in relation to parliamentary privilege, particularly in view of the fact that the Parliament (Power and Privileges) Act as amended in 1978 gives Parliament the power to impose penalties for breaches of this Act. The Committee is also concerned with the proposed amendments in the Constitution which seek to restrict the right to freedom of expression, "in the interest of the authority of Parliament", which would be in violation of article 19 of the Covenant. It is equally concerned that government ownership and control over much of the electronic media might undermine the right of everyone to seek, receive or impart information and ideas of all kinds.

458. The Committee notes that the workers employed in the free trade zones, 80 per cent of whom are women, are unable, in practice, to enjoy fully the rights set forth in articles 21 and 22 of the Covenant.

459. While the Committee welcomes the proposed changes to legislation for offences committed against children, such as incest and the sexual exploitation of children, it is concerned about the situation of the economic and sexual exploitation of children both with respect to the use of children in domestic service and the prostitution of boys.

460. The Committee notes that reforms are in place to raise the marriageable age for girls to 18. However, the current legislation permits the marriage of girls from the age of 12 and contains discriminatory provisions with regard to property between men and women, thus preventing women from fully enjoying the rights protected under articles 3, 23, paragraph 3, and 26 of the Covenant.

5. Suggestions and recommendations

461. The Committee strongly recommends that the State party take urgent steps to ensure that its domestic laws are in full compliance with the Covenant. In this regard, it further recommends that within the context of the present efforts to reform the Constitution due consideration be given to the provisions of the Covenant.

462. The Committee recommends that the State party consider acceding to the Optional Protocol.

463. The Committee notes the efforts being undertaken by the Government to establish various mechanisms to promote and protect human rights, including with respect to the National Human Rights Commission. In this regard, the Committee would like strongly to recommend that the proliferation of bodies with parallel competences should be avoided and that the coordination of such mechanisms should be ensured. It also urges the State party to take into account that investigation and prosecution of criminal offences should be carried out by an independent body and that punishment of criminal offences should be carried out by the judiciary.

464. The Committee recommends that the State party review the provision of article 16 of the Constitution, which permits all existing laws to remain valid and operative notwithstanding any inconsistency with constitutional stipulations relating to fundamental rights. It also recommends that the two-year time-limit for challenging the constitutionality of enacted legislations be abolished.

465. The Committee recommends that the provisions of the Covenant be fully respected in the areas where a state of emergency has been proclaimed. The Committee also urges the State party vigorously to investigate all violations of human rights - both past and present - through an independent agency, to punish those guilty of such acts and to compensate the victims.

466. The Committee recommends that the State party ensure that the death penalty may only be imposed for the most serious of crimes as required by article 6 of the Covenant. Moreover, in view of the fact that the death penalty has not been carried out since 1977, the Committee wishes further to recommend that the State party consider taking measures for the abolition of the death penalty and the ratification of or accession to the second Optional Protocol.

467. Noting that the definition of torture given in the Convention against Torture Act passed by Parliament on 25 November 1994 is somewhat restrictive, the Committee recommends that the Act be amended to bring it into conformity with article 7 of the Covenant, taking into account the Committee's general comment No. 20 (44). It further recommends that in view of the statement by the Government that corporal punishment has been suspended the provisions of the domestic legislation allowing this form of punishment be revoked.

468. With regard to articles 9 and 10 of the Covenant, the Committee recommends that as a matter of priority all legal provisions or executive orders be

reviewed to ensure their compatibility with the provisions of the Covenant and their effective implementation in practice.

469. The Committee recommends that the State party review the existing procedure relating to the removal of Supreme Court judges and judges of the Courts of Appeal with a view to its amendment as a means of ensuring the greater independence of the judiciary.

470. The Committee recommends the amendment of the Special Presidential Commissions of Inquiry Act to bring it into conformity with the provisions of articles 14 and 25 of the Covenant.

471. The Committee recommends that the present provisions by which freedom of the press can be restricted by reason of parliamentary privilege should be removed. The State party should also take the necessary steps to prevent control and manipulation of the electronic media by the Government.

472. With respect to the implementation of article 22, the Committee recommends that the State party ensure that workers within the free trade zones effectively exercise their right to organize.

473. The Committee recommends that measures be taken to ensure the protection of the child and in this regard the particular attention of the State party is drawn to the Personal Status Act, which permits the marriage of a girl at the age of 12, and its incompatibility with the provisions of the Covenant.

474. The Committee urges the State party to develop a comprehensive programme to deal with the issues of child labour, particularly of children in domestic service, and the sexual exploitation of children of both sexes.

475. The Committee strongly recommends that greater efforts be undertaken to ensure that all ethnic groups are provided with the opportunity to participate fully in the conduct of public affairs and are ensured equitable access to public service.

476. The Committee recommends that further measures be taken to develop greater awareness of the Covenant; in particular, law enforcement officials and members of the legal profession should be made fully cognizant of the provisions of the Covenant.

VII. GENERAL COMMENTS OF THE COMMITTEE

Work on general comments

477. At its fifty-second session, the Committee began discussion of a draft general comment that would address issues relating to reservations made upon ratification of or accession to the Covenant or the Optional Protocols thereto, or relating to statements made under article 41 of the Covenant. It considered that general comment at its 1368th, 1369th, 1380th, 1381st and 1382nd meetings, during its fifty-second session, on the basis of a draft prepared by its working group pursuant to successive drafts revised in the light of the observations and proposals put forward by members during and after the fifty-first session. The Committee adopted the general comment at its 1382nd meeting, on 2 November 1994 (see annex V).

478. Pursuant to the request of the Economic and Social Council, the Committee decided to transmit the general comment addressing issues relating to reservations made upon ratification of or accession to the Covenant or the Optional Protocols thereto, or relating to statements made under article 41 of the Covenant, to the Council at its substantive session in 1995.

479. During the three sessions covered by the present report, the Committee considered a draft general comment on article 25 of the Covenant at its 1384th, 1385th, 1399th, 1414th, 1422nd and 1423rd meetings on the basis of successive drafts revised by its working groups in the light of the observations and proposals of its members.

480. At its fifty-fourth session, the Committee noted that the pre-sessional working group had begun consideration of the general comments already adopted in the past, so as to determine which of them should be updated.

481. The Committee received comments under article 40, paragraph 5, of the Covenant, concerning its general comment No. 24 (52) on issues relating to reservations made upon ratification of or accession to the Covenant or the Optional Protocols thereto, or relating to statements made under article 41 of the Covenant. These comments, which were transmitted by the United States of America and the United Kingdom of Great Britain and Northern Ireland, are contained in annex VI to the present report.

VIII. CONSIDERATION OF COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL

482. Individuals who claim that any of their rights under the International Covenant on Civil and Political Rights have been violated, and who have exhausted all available domestic remedies, may submit written communications to the Human Rights Committee for consideration under the Optional Protocol. Of the 130 States that have ratified or acceded to the Covenant, 84 have accepted the Committee's competence to deal with individual complaints by becoming parties to the Optional Protocol (see annex I, sect. B). Since the Committee's last report to the General Assembly, seven States have ratified or acceded to the Optional Protocol: Bosnia and Herzegovina, Chad, El Salvador, Kyrgyzstan, Namibia, Paraguay and the former Yugoslav Republic of Macedonia. No communication can be examined by the Committee if it concerns a State party to the Covenant that is not also a party to the Optional Protocol.

483. Consideration of communications under the Optional Protocol is confidential and takes place in closed meetings (art. 5, para. 3, of the Optional Protocol). All documents pertaining to the work of the Committee under the Optional Protocol (submissions from the parties and other working documents of the Committee) are confidential. Rules 96 to 99 of the Committee's rules of procedure regulate the confidentiality of documents. The texts of final decisions of the Committee, consisting of Views adopted under article 5, paragraph 4, of the Optional Protocol, are, however, made public. As regards decisions declaring a communication inadmissible (which are also final), the Committee has decided that it will normally make these decisions public.

A. Progress of work

484. The Committee started its work under the Optional Protocol at its second session, in 1977. Since then, 636 communications concerning 46 States parties have been registered for consideration by the Committee, including 49 placed before it during the period covered by the present report.

485. The status of the 636 communications registered for consideration by the Human Rights Committee so far is as follows:

(a) Concluded by Views under article 5, paragraph 4, of the Optional Protocol: 208;

(b) Declared inadmissible: 213;

(c) Discontinued or withdrawn: 108;

(d) Declared admissible, but not yet concluded: 39;

(e) Pending at the pre-admissibility stage: 68.

486. In addition, the secretariat of the Committee has several hundred communications on file, in respect of which the authors have been advised that further information would be needed before their communications could be registered for consideration by the Committee. The authors of a number of additional communications have been informed that their cases will not be submitted to the Committee, as they fall clearly outside the scope of the Covenant or appear to be frivolous.

487. Two volumes containing selected decisions of the Human Rights Committee under the Optional Protocol, from the second to the sixteenth sessions and from the seventeenth to the thirty-second sessions, respectively, have been published (CCPR/C/OP/1 and 2).

488. During the fifty-second to fifty-fourth sessions, the Committee concluded consideration of 15 cases by adopting Views thereon. These are cases Nos. 386/1989 (Koné v. Senegal), 400/1990 (Mónaco de Gallicchio v. Argentina), 447/1991 (Shalto v. Trinidad and Tobago), 453/1991 (Coeriel v. the Netherlands), 464/1991 and 482/1991 (Peart v. Jamaica), 473/1991 (Barroso v. Panama), 493/1992 (Griffin v. Spain), 500/1992 (Debreczeny v. the Netherlands), 511/1992 (Länsman et al. v. Finland), 514/1992 (Fei v. Colombia), 516/1992 (Simunek et al. v. the Czech Republic), 518/1992 (Sohn v. the Republic of Korea), 539/1993 (Cox v. Canada and 606/1994 (Francis v. Jamaica). The texts of the Views in these 15 cases are reproduced in annex X.

489. The Committee also concluded consideration of 13 cases by declaring them inadmissible. These are cases Nos. 437/1990 (Colamarco Patiño v. Panama), 438/1990 (Thompson v. Panama), 460/1991 (Omar Simons v. Panama), 494/1992 (Rogers v. Jamaica), 515/1992 (Holder v. Trinidad and Tobago), 525/1992 (Gire v. France), 536/1993 (Perera v. Australia), 541/1993 (Simms v. Jamaica), 553/1993 (Bullock v. Trinidad and Tobago), 575/1994, 576/1994 (Guerra and Wallen v. Trinidad and Tobago), 578/1994 (De Groot v. the Netherlands) and 583/1994 (van der Houwen v. the Netherlands). The texts of these decisions are reproduced in annex XI.

490. During the period under review, 29 communications were declared admissible for examination on the merits. Decisions declaring communications admissible are not made public. Consideration of 15 cases was discontinued. Procedural decisions were adopted in a number of pending cases (under article 4 of the Optional Protocol or under rules 86 and 91 of the Committee's rules of procedure). The Committee requested Secretariat action in other pending cases.

B. Growth of the Committee's caseload under the Optional Protocol

491. As the Committee has already stated in previous annual reports, the increasing number of States parties to the Optional Protocol and better public awareness of the Committee's work under the Optional Protocol have led to a growth in the number of communications submitted to it. In addition, the Secretariat took action on several hundred cases which, for one reason or another, were not registered under the Optional Protocol and placed before the Committee. Furthermore, follow-up activities are required in the majority of the 154 cases in which the Committee found violations of the Covenant. This workload means that the Committee can no longer examine communications expeditiously and highlights the urgent need to reinforce the Secretariat staff. In this connection the Committee also notes that an increasing number of communications are being submitted in languages that are not among the working languages of the Secretariat, and expresses its concern about the consequent delays in the examination of such communications. The Committee reiterates its request to the Secretary-General to take the necessary steps to ensure a substantial increase in the number of staff, specialized in the various legal systems, assigned to service the Committee, and wishes to record that the work under the Optional Protocol continues to suffer as a result of insufficient Secretariat resources.

C. Approaches to examining communications under the Optional Protocol

1. Special Rapporteur on new communications

492. At its thirty-fifth session, the Committee decided to designate a Special Rapporteur to process new communications as they were received, i.e., between sessions of the Committee. Mrs. Rosalyn Higgins served as Special Rapporteur for a period of two years. She was succeeded as Special Rapporteur by Mr. Rajsoomer Lallah (forty-first to forty-sixth sessions) and by Ms. Christine Chanet (forty-seventh to fifty-second sessions). At the Committee's fifty-third session, Mr. Fausto Pocar was designated to succeed Ms. Chanet as Special Rapporteur. Since the end of the fifty-first session, the Special Rapporteur has transmitted 38 new communications to the States parties concerned under rule 91 of the Committee's rules of procedure, requesting information or observations relevant to the question of admissibility. In some cases, the Special Rapporteurs issued requests for interim measures of protection pursuant to rule 86 of the Committee's rules of procedure. Regarding other communications, the Special Rapporteurs recommended to the Committee that the communications be declared inadmissible without forwarding them to the State party.

2. Competence of the Working Group on Communications

493. At its thirty-sixth session, the Committee decided to authorize the Working Group on Communications to adopt decisions declaring communications admissible when all five members so agreed. Failing such agreement, the Working Group would refer the matter to the Committee. It could also do so whenever it believed that the Committee itself should decide the question of admissibility. While the Working Group could not adopt decisions declaring communications inadmissible, it might make recommendations in that respect to the Committee. Pursuant to those rules, the Working Group that met prior to the fifty-second, fifty-third and fifty-fourth sessions of the Committee declared 23 communications admissible.

3. Joinder of admissibility and merits

494. At its fifty-fourth session, the Committee decided that it would join the consideration of admissibility and merits of communications when both parties consented and the Committee considered it appropriate. Consequently, at its fifty-fourth session, the Committee declared communication No. 606/1994 (Francis v. Jamaica) admissible and adopted its Views thereon.

D. Individual opinions

495. In its work under the Optional Protocol, the Committee strives to arrive at its decisions by consensus. However, pursuant to rule 94, paragraph 3, of the Committee's rules of procedure, members can add their individual concurring or dissenting opinions to the Committee's Views. Pursuant to rule 92, paragraph 3, members can append their individual opinions to the Committee's decisions declaring communications inadmissible.

496. During the sessions covered by the present report, individual opinions were appended to the Committee's Views in cases Nos. 453/1991 (Coeriel v. the Netherlands) and 539/1993 (Cox v. Canada).

E. Issues considered by the Committee

497. A review of the Committee's work under the Optional Protocol from its second session in 1977 to its fifty-first session in 1994 can be found in the Committee's annual reports for 1984 to 1994, which contain, inter alia, summaries of the procedural and substantive issues considered by the Committee and of the decisions taken. The full texts of the Views adopted by the Committee and of its decisions declaring communications inadmissible under the Optional Protocol have been reproduced regularly in annexes to the Committee's annual reports.

498. The following summary reflects further developments on issues considered during the period covered by the present report.

1. Procedural issues

(a) No claim under article 2 of the Optional Protocol

499. Article 2 of the Optional Protocol provides that "individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration".

500. Although an author does not need to prove the alleged violation at the admissibility stage, he must submit sufficient evidence substantiating his allegation for purposes of admissibility. A "claim" is, therefore, not just an allegation, but an allegation supported by a certain amount of substantiating evidence. Thus, in cases where the Committee finds that the author has failed to substantiate his claim for purposes of admissibility, the Committee has held the communication inadmissible, under rule 90 (b) of its rules of procedure, declaring that the author "has no claim under article 2 of the Optional Protocol".

501. Cases declared inadmissible, inter alia, for lack of substantiation of the claim or failure to advance a claim, are communications Nos. 460/1991 (Simons v. Panama), 536/1993 (Perera v. Australia) and 541/1993 (Simms v. Jamaica).

(b) Competence of the Committee and incompatibility with the provisions of the Covenant (Optional Protocol, art. 3)

502. In its work under the Optional Protocol, the Committee has on several occasions had to point out that it is not an appeal instance intended to review or reverse decisions of domestic courts and that it cannot be used as a forum for pursuing a complaint on the basis of domestic law.

503. In case No. 541/1993 (Simms v. Jamaica), the author, who had been sentenced to death, complained that his trial was unfair and that the judge had misdirected the jury on the issue of identification. The Committee decided that the communication was inadmissible under article 3 of the Optional Protocol. It found that the author's claims did not come within the competence of the Committee, as they related primarily to the judge's instructions to the jury and

the evaluation of evidence by the court. The Committee recalled that it was generally for the appellate courts of States parties to the Covenant and not for the Committee to evaluate the facts and evidence and to review specific instructions to the jury by the judge, unless it can be ascertained that the instructions were clearly arbitrary or amounted to a denial of justice.

504. The Committee reached a similar conclusion with regard to cases Nos. 460/1991 (Simons v. Panama), 536/1993 (Perera v. Australia) and 553/1993 (Bullock v. Trinidad and Tobago).

505. Communication No. 583/1994 (van der Houwen v. the Netherlands) was declared inadmissible as incompatible with the provisions of the Covenant, as was part of communication No. 578/1994 (De Groot v. the Netherlands).

(c) The requirement of exhaustion of domestic remedies (Optional Protocol, art. 5, para. 2 (b))

506. Pursuant to article 5, paragraph 2 (b), of the Optional Protocol, the Committee shall not consider any communication unless it has ascertained that the author has exhausted all available domestic remedies. However, the Committee has already established that the rule of exhaustion applies only to the extent that these remedies are effective and available. The State party is required to give "details of the remedies which it submitted that had been available to the author in the circumstances of his case, together with evidence that there would be a reasonable prospect that such remedies would be effective" (case No. 4/1977 (Torres Ramírez v. Uruguay)). The rule also provides that the Committee is not precluded from examining a communication if it is established that the application of the remedies in question is unreasonably prolonged.

507. Communications Nos. 437/1990 (Colamarco v. Panama), 438/1990 (Thompson v. Panama), 515/1992 (Holder v. Trinidad and Tobago), 525/1993 (Gire v. France) and 575/1994 (Guerra v. Trinidad and Tobago) were declared inadmissible for failure to pursue available and effective domestic remedies.

(d) Inadmissibility ratione temporis

508. As at previous sessions, the Committee was faced with communications based on events that occurred prior to the entry into force of the Optional Protocol for the State concerned. The criterion of admissibility is whether the events have had continued effects which themselves constitute violations of the Covenant after the entry into force of the Optional Protocol.

509. In communication No. 536/1993 (Perera v. Australia), the author, inter alia, complained that the police had used violence against him in 1986. Since the Optional Protocol entered into force for Australia on 25 December 1991, the Committee declared this part of the communication inadmissible ratione temporis.

510. In case No. 516/1992 (Simunek et al. v. the Czech Republic), the Committee observed that:

> "the State party's obligations under the Covenant applied as of the date of its entry into force. A different issue arose as to when the Committee's competence to consider complaints about alleged violations of the Covenant under the Optional Protocol was engaged. In its jurisprudence under the Optional Protocol, the Committee has consistently held that it cannot consider alleged violations of the Covenant which occurred before the entry

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into force of the Optional Protocol for the State party, unless the violations complained of continue after the entry into force of the Optional Protocol. A continuing violation is to be interpreted as an affirmation, after the entry into force of the Optional Protocol, by act or by clear implication, of the previous violations of the State party" (annex X, sect. K, para. 4.5).

Since the authors alleged that the continuous application of a law discriminated against them, the Committee declared the communication admissible.

(e) Interim measures under rule 86

511. Under rule 86 of the Committee's rules of procedure, the Committee may, after receipt of a communication and before adopting its views, request a State party to take interim measures in order to avoid irreparable damage to the victim of the alleged violations. The Committee has applied this rule on several occasions, mostly in cases submitted by or on behalf of persons who have been sentenced to death and are awaiting execution, and who claim that they were denied a fair trial. In view of the urgency of the communications, the Committee has requested the States parties concerned not to carry out the death sentences while the cases are under consideration. Stays of execution have specifically been granted in this connection. Rule 86 has also been applied in other circumstances, for instance in cases of imminent extradition.

2. Substantive issues

(a) Right to life (Covenant, art. 6)

512. Article 6, paragraph 2, provides that a "sentence of death may be imposed only for the most serious of crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant". Thus, a nexus is established between the imposition of a sentence of death and observance by State authorities of guarantees under the Covenant. Accordingly, in cases where the Committee found that the State party had violated article 14 of the Covenant, in that the author had been denied a fair trial and appeal, the Committee held that the imposition of the sentence of death also entailed a violation of article 6. In its Views in case Nos. 464/1991 and 482/1991 (Garfield and Andrew Peart v. Jamaica) the Committee observed:

> "The Committee is of the opinion that the imposition of a sentence of death upon conclusion of a trial in which the provisions of the Covenant have not been respected constitutes, if no further appeal against the sentence is possible, a violation of article 6 of the Covenant. As the Committee noted in its general comment 6(16), the provision that a sentence of death may be imposed only in accordance with the law and not contrary to the provisions of the Covenant implies that 'the procedural guarantees therein prescribed must be observed, including the right to a fair hearing by an independent tribunal, the presumption of innocence, the minimum guarantees for the defence, and the right to review of conviction and sentence by a higher tribunal'" (annex X, sect. E, para. 11.8).

513. Having concluded that the final sentence of death had been imposed after a trial that failed to comply fully with the requirements of article 14, the Committee found that the right protected by article 6 had been violated.

article 6, paragraph 1, to protect the right to life. In Mr. Cox's case, the Committee had to determine whether the requirement under article 6, paragraph 1, prevented the State party from extraditing the complainant to the United States, where he was to stand trial on two murder charges and, if convicted, could be sentenced to death. The Committee observed that, if Mr. Cox's extradition from Canada had exposed him to a real risk of a violation of article 6, paragraph 2, in the United States, this would have entailed a violation by Canada of its obligations under the said provision. In the circumstances of this particular case, the Committee found that the existence of such risk had not been shown and consequently found no violation of article 6, paragraph 1, by Canada.

515. Five members of the Committee appended dissenting opinions, arguing that Canada had violated article 6 in the instant case. One member appended an individual opinion arguing that Mr. Cox's extradition would entail a violation by Canada of article 7 of the Covenant Furthermore, two members appended individual opinions, agreeing with the finding of no violation, but arguing that the Committee should have revised its decision on admissibility and not have proceeded to the merits. As to the Committee's decision on admissibility, seven members appended dissenting opinions.

(b) The right not to be subjected to torture or to cruel, inhuman or degrading treatment (Covenant, art. 7)

516. Article 7 of the Covenant provides that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

517. In its jurisprudence regarding claims that a prolonged stay on death row constitutes cruel, inhuman and degrading treatment, the Committee has consistently held that the facts and circumstances of each case must be examined to see whether an issue under article 7 arises and that prolonged judicial proceedings do not per se constitute that kind of treatment, even if they might be a source of mental strain and tension for detained persons.

518. In case No. 541/1993 (Simms v. Jamaica), the Committee observed:

> "Although some national courts of last resort have held that prolonged detention on death row for a period of five years or more violates their constitutions or laws,[23] the jurisprudence of this Committee remains that detention for any specific period would not be a violation of article 7 of the Covenant in the absence of some further compelling circumstances" (annex XI, sect. H, para. 6.5).

519. In case No. 606/1994 (Francis v. Jamaica), the Committee had to determine whether the author's treatment during his nearly 12 years' detention on death row entailed violations of articles 7 and 10 of the Covenant. After having reaffirmed its established jurisprudence, the Committee found that the delays in this case were attributable to the State party and considered:

> "Whereas the psychological tension created by prolonged detention on death row may affect persons in different degrees, the evidence before the Committee in this case, including the author's confused and incoherent correspondence with the Committee, indicates that his mental health seriously deteriorated during incarceration on death row. Taking into consideration the author's description of the prison conditions, including his allegations about regular beatings inflicted upon him by warders, as well as the ridicule and strain to which he was subjected during the five days he spent in the death cell awaiting execution in February 1988, which

well as the ridicule and strain to which he was subjected during the five days he spent in the death cell awaiting execution in February 1988, which the State party has not effectively contested, the Committee concludes that these circumstances reveal a violation of Jamaica's obligations under articles 7 and 10, paragraph 1, of the Covenant" (annex X, sect. N, para. 9.2).

(c) Liberty and security of person (Covenant, art. 9)

520. Article 9 of the Covenant guarantees to everyone the right to liberty and security of person. Under paragraph 1, no one shall be subjected to arbitrary arrest or detention. Paragraph 2 prescribes that anyone who is arrested shall be informed, at the time of his arrest, of the reasons for his arrest and shall be promptly informed of any charges against him. Paragraph 3 gives anyone arrested or detained on a criminal charge the right to be brought promptly before a judge and states that it shall not be the general rule that persons awaiting trial shall be detained in custody. Paragraph 4 entitles anyone deprived of his liberty to take proceedings before a court, in order to have the court decide on the lawfulness of his detention. Paragraph 5 gives anyone who has been the victim of unlawful arrest or detention a right to compensation.

521. In communication No. 493/1992 (Griffin v. Spain), the author, a Canadian citizen who did not speak Spanish, claimed a violation of article 9, paragraph 2, because there was no interpreter present when he was arrested and he was therefore not informed of the reasons for his arrest. The Committee noted:

> "that the author was arrested and taken into custody at 11.30 p.m. on 17 April 1991, after the police, in the presence of the author, had searched the camper and discovered the drugs. The police reports further reveal that the police refrained from taking his statement in the absence of an interpreter, and that the following morning the drugs were weighed in the presence of the author. He was then brought before the examining magistrate and, with the use of an interpreter, he was informed of the charges against him. The Committee observes that, although no interpreter was present during the arrest, it is wholly unreasonable to argue that the author was unaware of the reasons for his arrest. In any event, he was promptly informed, in his own language, of the charges held against him" (annex X, sect. G, para. 9.2).

The Committee concluded that no violation of article 9, paragraph 2, had occurred.

522. In communication No. 386/1989 (Koné v. Senegal), the author had been arrested on 15 January 1982 and released on 9 May 1986; during this time no trial date was set. The Committee concluded that the author's detention of four years and four months was incompatible with the provisions of article 9, paragraph 3, that anyone arrested on a criminal charge shall be entitled to trial within a reasonable time or to release.

523. In communication No. 447/1991 (Shalto v. Trinidad and Tobago), the author had been found guilty of murdering his wife. However, the Court of Appeal, on 23 March 1983, quashed his conviction and ordered a retrial. The author remained in detention until the retrial, which started on 20 January 1987. The Committee found that the author's detention for a period of almost four years between the judgement of the Court of Appeal and the beginning of the retrial could not be deemed compatible with the provisions of article 9, paragraph 3.

(d) Treatment during imprisonment (Covenant, art. 10)

524. Article 10, paragraph 1, prescribes that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. Paragraph 2 of article 10 states that accused persons shall be segregated from convicted persons, save in exceptional circumstances, and that accused juvenile persons shall be separated from adults. The Committee found a violation of article 10, paragraphs 1 and 2, in case No. 493/1992 (Griffin v. Spain).

(e) Guarantees of a fair trial (Covenant, art. 14)

525. Article 14, paragraph 1, provides that all persons shall be equal before the courts and gives everyone the right to a fair and public hearing in the determination of criminal charges against him.

526. In case No. 514/1992 (Fei v. Colombia), the author, who had separated from her husband and had subsequently left Colombia and taken up residence in Italy, was engaged in procedures before the Colombian courts concerning visiting rights and custody of her two children. She claimed that the proceedings had been deliberately delayed by the Colombian judicial authorities. The Committee observed that the concept of "fair trial" includes also other elements than those of impartiality and independence of the judicial authorities:

> "Among these ... are the respect for the principles of equality of arms, of adversary proceedings and of expeditious proceedings. In the present case, the Committee is not satisfied that the requirement of equality of arms and of expeditious procedure have been met. It is noteworthy that every court action instituted by the author took several years to adjudicate - and difficulties in communication with the author, who does not reside in the State party's territory, cannot account for such delays, as she had secured legal representation in Colombia. The State party has failed to explain these delays. On the other hand, actions instituted by the author's ex-husband and by or on behalf of her children were heard and determined considerably more expeditiously. As the Committee has noted in its admissibility decision, the very nature of custody proceedings or proceedings concerning access of a divorced parent to his children requires that the issues complained of be adjudicated expeditiously. In the Committee's opinion, given the delays in the determination of the author's actions, this has not been the case" (annex X, sect. J, para. 8.4).

527. Article 14, paragraph 3 (c), gives every accused person the right to be tried without undue delay. In case No. 447/1991 (Shalto v. Trinidad and Tobago), the Committee found that the delay of almost four years between the judgement of the Court of Appeal ordering a retrial and the beginning of the retrial could not be deemed compatible with this provision. In case No. 473/1991 (Barroso v. Panama), the Committee found a violation of article 14, paragraph 3 (c), because of a delay of over three and a half years between indictment and trial.

528. Pursuant to article 14, paragraph 3 (e), an accused person shall have the right to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses brought against him. In communication No. 536/1993 (Perera v. Australia), which was declared inadmissible by the Committee, the author complained that his defence lawyer had not called a certain witness for his defence. The Committee considered:

"that the State party cannot be held accountable for alleged errors made by a defence lawyer, unless it was or should have been manifest to the judge that the lawyer's behaviour was incompatible with the interests of justice" (annex XI, sect. G, para. 6.3).

529. In cases Nos. 464/1991 and 482/1991 (Garfield and Andrew Peart v. Jamaica), a statement made to the police by the main prosecution witness in the evening after the murder for which the complainants were charged was not made available to the defence. It was shown that the statement materially differed from the statement at the preliminary hearing and at the trial. In the specific circumstances of the case, the Committee considered that the failure to make the statement available to the defence had seriously obstructed the defence in its cross-examination of the witness, thereby precluding a fair trial.

530. Article 14, paragraph 5, gives anyone convicted of a crime the right to have his conviction and sentence reviewed by a higher tribunal according to law. In case No. 536/1993 (Perera v. Australia), the Committee had occasion to observe that article 14, paragraph 5, does not require that a Court of Appeal proceed to a factual retrial, but that a Court conduct an evaluation of the evidence presented at the trial and of the conduct of the trial.

(f) Right to privacy (Covenant, art. 17)

531. Under article 17, paragraph 1, no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. In case No. 453/1991 (Coeriel v. the Netherlands), the Committee had to determine whether article 17 protected the right to choose and change one's own name. The authors of the communication had requested a change of surname in order to enable them to pursue their religious Hindu studies, which had been refused by the State party. The Committee considered:

"that the notion of privacy refers to the sphere of a person's life in which he or she can freely express his or her identity, be it by entering into relationships with others or alone. The Committee is of the view that a person's surname constitutes an important component of one's identity and that the protection against arbitrary or unlawful interference with one's privacy includes the protection against arbitrary or unlawful interference with the right to choose and change one's own name. For instance, if a State were to compel all foreigners to change their surnames, this would constitute interference in contravention of article 17" (annex X, sect. D, para. 10.2).

In the circumstances of the case, the Committee found that the refusal of the authors' request to have their surnames changed was unreasonable and therefore arbitrary within the meaning of article 17, paragraph 1, of the Covenant. Two members of the Committee appended a dissenting individual opinion to the Committee's finding of a violation.

(g) Freedom of expression (Covenant, art. 19)

532. Under article 19, paragraph 1, everyone has the right to hold opinions without interference; paragraph 2 gives everyone the freedom of expression. The rights provided for in article 19, paragraph 2, may be subject to certain restrictions, but only as are provided by law and are necessary for the protection of the rights or reputations of others or for the protection of national security, public order (ordre public), or public health or morals.

533. In case No. 518/1992 (Sohn v. the Republic of Korea), the author, a labour union leader, had been arrested, charged and convicted for having issued a statement of support for a strike at a shipyard. His conviction was based on article 13 (2) of the Labour Dispute Adjustment Act, which prohibits third-party intervention in labour disputes. The Committee observed:

> "that any restriction of the freedom of expression pursuant to paragraph 3 of article 19 must cumulatively meet the following conditions: it must be provided for by law, it must address one of the aims enumerated in paragraph 3 (a) and (b) of article 19, and must be necessary to achieve the legitimate purpose. While the State party has stated that the restrictions were justified in order to protect national security and public order and that they were provided for by law, under article 13 (2) of the Labour Dispute Adjustment Act, the Committee must still determine whether the measures taken against the author were necessary for the purpose stated. The Committee notes that the State party has invoked national security and public order by reference to the general nature of the labour movement and by alleging that the statement issued by the author in collaboration with others was a disguise for the incitement to a national strike. The Committee considers that the State party has failed to specify the precise nature of the threat which it contends that the author's exercise of freedom of expression posed and finds that none of the arguments advanced by the State party suffice to render the restriction of the author's right to freedom of expression compatible with paragraph 3 of article 19" (annex X, sect. L, para. 10.4).

The Committee concluded that article 19 had been violated in the author's case.

(h) The rights of the family and to marry (Covenant, art. 23)

534. Article 23 of the Covenant protects the family and the right to marry. Paragraph 4 of the article provides that States parties should ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

535. In case No. 514/1992 (Fei v. Colombia), the author, whose marriage was dissolved, had been hindered in having regular contact with her children. The Committee recalled its observations in case No. 201/1985 (Hendriks v. the Netherlands) that article 23, paragraph 4, grants, barring exceptional circumstances, a right to regular contact between children and both of their parents upon dissolution of a marriage. The unilateral opposition of one parent generally does not constitute such an exceptional circumstance. The Committee found that no special circumstances were discernible in the case at hand which could justify that the mother was virtually excluded from having access to her two daughters and it concluded that there had been a violation of article 23, paragraph 4.

(i) The right of a minor to protection on the part of his family, society and the State (Covenant, art. 24)

536. Article 24 of the Covenant provides that every child shall have, without any discrimination, the right to such measures of protection as required by his status as a minor, on the part of his family, society and the State. The facts of case No. 400/1990 (Mónaco de Gallicchio v. Argentina) showed that the author's granddaughter disappeared, together with her parents, in 1977, when she was nine years old. The grandmother managed to locate her granddaughter in

1984; she was then living as the adopted daughter of one S.S., who was subsequently charged with concealing the whereabouts of a minor and forgery of documents. In January 1989, the grandmother was granted provisional guardianship over the child, but denied the right to represent the child in the various proceedings; S.S. was granted visiting rights. On 11 August 1992, the adoption of the child by S.S. was nullified. In 1993, the granddaughter's legal identity was established.

537. Noting the long delay in the completion of the judicial proceedings, the Committee, in the specific circumstances of the case, found:

> "that the protection of children stipulated in article 24 of the Covenant required the State party to take affirmative action to grant Ms. Vicario prompt and effective relief from her predicament. In this context, the Committee recalls its general comment on article 24,[24] in which it stressed that every child has a right to special measures of protection because of his/her status as a minor; those special measures are additional to the measures that States are required to take under article 2 to ensure that everyone enjoys the rights provided for in the Covenant. Bearing in mind the suffering already endured by Ms. Vicario, who lost both of her parents under tragic circumstances imputable to the State party, the Committee finds that the special measures required under article 24, paragraph 1, of the Covenant, were not expeditiously applied by Argentina, and that the failure to recognize the standing of Mrs. Mónaco in the guardianship and visitation proceedings and the delay in legally establishing Ms. Vicario's real name and issuing identity papers also entailed a violation of article 24, paragraph 2, of the Covenant, which is designed to promote recognition of the child's legal personality" (annex X, sect. B, para. 10.5).

(j) The right to vote and to be elected (Covenant, art. 25)

538. Article 25 (b) of the Covenant protects the right and the opportunity, without any of the distinctions mentioned in article 2 of the Covenant and without unreasonable restrictions, to vote and to be elected. In case No. 500/1992 (Debreczeny v. the Netherlands), the author, a local policeman, was elected to the municipal council, but was not allowed to take his seat because under Netherlands law the membership in the municipal council was incompatible with employment as a civil servant in subordination to local authorities. In its Views, the Committee notes that while the right provided for by article 25 is not an absolute right, restrictions of the right must be neither discriminatory nor unreasonable. In the Committee's opinion, the application of the lawful restrictions to the author did not constitute a violation of article 25 of the Covenant.

(k) The right to equality before the law and to equal protection by the law and the prohibition of discrimination

539. Article 26 of the Covenant provides that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination.

540. In case No. 516/1992 (Simunek et al. v. the Czech Republic), the authors had left their country (Czechoslovakia) for political reasons and had had their property confiscated. A law enacted in 1991 provided for restitution or compensation for confiscations carried out by the Communist Government, but

excluded non-residents and non-Czech citizens. The authors argued that the application of the law violated their rights under article 26. The Committee considered that:

> "In examining whether the conditions for restitution or compensation are compatible with the Covenant, the Committee must consider all relevant factors, including the authors' original entitlement to the property in question and the nature of the confiscations. The State party itself acknowledges that the confiscations were discriminatory, and this is the reason why specific legislation was enacted to provide for a form of restitution. The Committee observes that such legislation must not discriminate among the victims of the prior confiscations, since all victims are entitled to redress without arbitrary distinctions. Bearing in mind that the authors' original entitlement to their respective properties was not predicated either on citizenship or residence, the Committee finds that the conditions of citizenship and residence in Act 87/1991 are unreasonable. In this connection the Committee notes that the State party has not advanced any grounds which would justify these restrictions. Moreover, it has been submitted that the authors and many others in their situation left Czechoslovakia because of their political opinions and that their property was confiscated either because of their political opinions or because of their emigration from the country. These victims of political persecution sought residence and citizenship in other countries. Taking into account that the State party itself is responsible for the departure of the authors, it would be incompatible with the Covenant to require them permanently to return to the country as a prerequisite for the restitution of their property or for the payment of appropriate compensation.
>
> "The State party contends that there is no violation of the Covenant because the Czech and Slovak legislators had no discriminatory intent at the time of the adoption of Act 87/1991. The Committee is of the view, however, that the intent of the legislature is not alone dispositive in determining a breach of article 26 of the Covenant. A politically motivated differentiation is unlikely to be compatible with article 26. But an act which is not politically motivated may still contravene article 26 if its effects are discriminatory" (annex X, sect. K, paras. 11.6 and 11.7).

Consequently, the Committee found a violation of article 26 in the authors' case.

(l) The right of persons belonging to minorities to enjoy their own culture, to profess and practise their own religion, or to use their own language (Covenant, art. 27)

541. Article 27 of the Covenant protects the right of persons belonging to minorities to enjoy their own culture, to profess and practise their own religion, or to use their own language. In case No. 511/1992 (Länsman et al. v. Finland), the authors, who belonged to a local Sami community, argued that the quarrying going on in their area interfered with their reindeer husbandry. In its Views, the Committee recalled that economic activities might come within the ambit of article 17 if they were an essential element of the culture of an ethnic community:

> "The right to enjoy one's culture cannot be determined in abstracto but has to be placed in context. In this connection, the Committee

observes that article 27 does not only protect traditional means of livelihood of national minorities, as indicated in the State party's submission. Therefore, the fact that the authors may have adapted their methods of reindeer-herding over the years and may practise it with the help of modern technology does not prevent them from invoking article 27 of the Covenant" (annex X, sect. I, para. 9.3).

In the specific circumstances of the case, the Committee concluded that the quarrying that had taken place did not constitute a denial of the authors' right to enjoy their own culture. The Committee noted, however, that if mining activities were to be approved on a large scale in the future, it might constitute a violation of the authors' rights under article 27. The Committee stated that the State party was under a duty to keep that in mind when either extending existing contracts or granting new ones.

F. Remedies called for under the Committee's Views

542. The Committee's decisions on the merits are referred to as "Views" in article 5, paragraph 4, of the Optional Protocol. After the Committee has made a finding of a violation of a provision of the Covenant, it proceeds to ask the State party to take appropriate steps to remedy the violation. For instance, in the period covered by the present report, the Committee, in a case concerning custody and children's rights, found as follows:

> "In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the author with an effective remedy. In the Committee's opinion, this entails guaranteeing the author's regular access to her daughters, and that the State party ensure that the terms of the judgments in the author's favour are complied with. The State party is under an obligation to ensure that similar violations do not occur in the future" (annex X, sect. J, para. 10).

The Committee further observed that:

> "Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive from the State party, within 90 days, information about the measures taken to give effect to the Committee's Views" (annex X, sect. J, para. 11).

G. Non-cooperation by States parties

543. The following States have offered no cooperation in the Committee's consideration of communications under the Optional Protocol relating to them: Central African Republic, Dominican Republic, Equatorial Guinea and Zaire.

IX. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

544. From its seventh session, in 1979, to its fifty-fourth session, in July 1994, the Human Rights Committee has adopted 208 Views on communications received and considered under the Optional Protocol. The Committee has found violations in 154 of them. For many years, however, the Committee was informed by States parties in only a limited number of cases of any measures taken by them to give effect to the Views adopted. Because of lack of knowledge about State party compliance with its decisions, the Committee has devised a mechanism that should enable it to evaluate State party compliance with its Views.

545. During its thirty-ninth session (July 1990), following a thorough debate on the Committee's competence to engage in follow-up activities, the Committee established a procedure for monitoring the follow-up to its Views under article 5, paragraph 4, of the Optional Protocol. At the same time, the Committee created the mandate of Special Rapporteur for the follow-up on Views. His mandate is spelt out in annex XI of the Committee's report to the General Assembly at its forty-fifth session.[25] From the thirty-ninth (July 1990) to the forty-seventh (March 1993) session, the late Mr. János Fodor acted as Special Rapporteur for the follow-up on Views. At the forty-seventh session (March 1993), Mr. Andreas Mavrommatis was appointed Special Rapporteur for follow-up on Views. His mandate was extended for another two years at the fifty-third session (March 1995). During its fifty-first session the Committee adopted a new rule of procedure, rule 95, which spells out the mandate of the Special Rapporteur.[26]

546. Pursuant to his mandate, the Special Rapporteur has requested follow-up information from States parties since the autumn of 1990. Follow-up information has systematically been requested in respect of all Views with a finding of a violation of the Covenant. At the beginning of the Committee's fifty-fourth session, follow-up information had been received in respect of 81 Views. No information had been received in respect of 62 Views; in five cases, the deadline for receipt of follow-up information had not yet expired. It may be noted that in many instances, the Secretariat has also received information from authors to the effect that the Committee's Views had not been implemented. Conversely, in some rare instances, the author of a communication has informed the Committee that the State party did give effect to the Committee's recommendations, whereas the State party did not provide this information.

547. There are certain difficulties in attempting to categorize follow-up replies. By the beginning of the fifty-fourth session, it transpired that approximately 30 per cent of the replies received were satisfactory in that they displayed a willingness on the part of the State party to implement the Committee's Views or to offer the applicant an appropriate remedy. Many replies simply indicated that the victim had failed to file a claim for compensation within the statutory deadlines and that, therefore, no compensation could be paid to the victim. Another category of replies cannot be considered fully satisfactory in that they either did not address the Committee's recommendations at all or merely related to one aspect thereof.

548. The remainder of the replies either explicitly challenged the Committee's findings on factual or on legal grounds (nine replies), indicated that the State party would not, for one reason or another, give effect to the Committee's recommendations (nine replies), promised an investigation of the matter considered by the Committee or constituted much belated submissions on the merits of the case.

549. A country-by-country breakdown of follow-up replies received or requested and outstanding as of 28 July 1995 gives the following picture:

Argentina	1 decision finding violations, follow-up deadline not yet expired.
Australia	1 decision finding violations (preliminary), follow-up reply received.
Austria	1 decision finding violations (unsatisfactory), follow-up reply received.
Bolivia	2 Views finding violations, no follow-up reply received.
Cameroon	1 decision finding violations, no follow-up reply received.
Canada	6 Views finding violations, 3 fully satisfactory follow-up replies, 2 (incomplete) follow-up replies, no follow-up reply in 1 case.
Central African Republic	1 decision finding violations, no follow-up reply received.
Colombia	7 Views finding violations, 6 follow-up replies challenging the Committee's findings or amounting to late submissions on the merits; deadline for follow-up submission not expired in 1 case.
Dominican Republic	3 Views finding violations, 1 follow-up reply, no replies in 2 cases.
Ecuador	Three Views finding violations, 1 follow-up reply received, no replies received in 2 cases.
Equatorial Guinea	2 Views finding violations, no follow-up reply received.
Finland	4 Views finding violations, follow-up replies received in all 4 cases.
France	1 decision finding violations, no follow-up reply received.
Hungary	One decision finding violations (preliminary), follow-up reply received.
Jamaica	37 Views finding violations, 9 follow-up replies received, all indicating that the State party will not implement the Committee's recommendations; no follow-up reply in 18 cases.
Libyan Arab Jamahiriya	1 decision finding violations, no follow-up reply received.

Madagascar	4 Views finding violations, no follow-up reply received.
Mauritius	1 decision finding violations, follow-up reply received.
Netherlands	4 Views finding violations, follow-up replies received in all 4 cases.
Nicaragua	1 View finding violations, no follow-up reply received.
Panama	1 decision finding violations, no follow-up reply received.
Peru	4 Views finding violations, follow-up replies indicating that Views were passed on to the Supreme Court for action in 2 cases, no follow-up replies received in 2 cases.
Senegal	1 decision finding violations, follow-up reply received.
Spain	1 decision finding violations, follow-up reply received.
Suriname	8 Views finding violations, no follow-up reply received.
Trinidad and Tobago	3 Views finding violations, 1 follow-up reply received, no follow-up reply in 1 case, follow-up deadline in 1 case not yet expired.
Uruguay	45 Views finding violations, 43 follow-up replies received, no follow-up replies in 2 cases.
Venezuela	1 decision finding violations, follow-up reply received.
Zaire	9 Views finding violations, no follow-up reply received.
Zambia	2 Views finding violations, 1 complete and 1 (preliminary) follow-up reply received.

550. The overall results of the first five years of experience with the follow-up procedure are encouraging, yet they cannot be termed fully satisfactory. Some States parties replying under the follow-up procedure have indeed argued that they are implementing the Committee's Views by, for example, releasing from detention victims of human rights violations, by granting the victim compensation for the violations suffered, by amending legislation found incompatible with the provisions of the Covenant, or by offering the complainant other forms of remedies. Some States parties have acted on the Committee's Views and granted or offered some form of remedy but failed to inform the Committee accordingly.

551. On the other hand, a number of States parties have indicated that compensatory payments to the victim or victims were made ex gratia, notably where the domestic legal system does not provide for compensation in a different manner, or that a remedy was offered ex gratia. This, for example, was the argument of the Government of the Netherlands in its follow-up replies on the Committee's Views in respect of communications No. 305/1988 (Hugo van Alphen v. Netherlands) and No. 453/1991 (Coeriel v. the Netherlands).

552. The Committee is equally aware that the absence of specific enabling legislation is a crucial factor which often stands in the way of monetary compensation to victims of violations of the Covenant. This argument was, for example, adduced by the Government of Austria in its follow-up reply on the Views in case No. 415/1990 (Pauger v. Austria), and by the Government of Senegal in its follow-up reply on the Views in case No. 386/1989 (Koné v. Senegal). The Committee commends those States parties which have compensated victims of violations of the Covenant; it encourages States parties to consider the adoption of specific enabling legislation and, pending this, to make ex gratia payments by way of compensation.

553. In the case of Peru, where enabling legislation does exist, the Committee considered whether it was appropriate to treat the complaint of the author of communication No. 203/1986 (Muñoz Hermosa v. Peru), contending that the Committee's Views had not been implemented by the Peruvian courts, as a new case under the Optional Protocol. The Committee concluded that, on balance, the author's contention that the State party had failed to provide him with a remedy should be examined in the context of the follow-up procedure.

554. Since it began to discuss follow-up matters in 1990, the Committee has carefully examined and analysed all the information gathered through the follow-up procedure. Between the forty-first and fiftieth sessions, it considered follow-up information on a confidential basis. Periodic reports on follow-up activities (so-called "progress reports") were not made public, and the discussions on follow-up issues took place in closed meetings.

555. At the same time, however, the Committee acknowledged that publicity for follow-up activities would be the most appropriate means for making the procedure more effective. Thus, publicity for follow-up activities would not only be in the interest of victims of violations of the Covenant's provisions, but could also serve to enhance the authority of the Committee's Views and provide an incentive for States parties to implement them. The reaction of States parties to the increased publicity and visibility of follow-up activities since the publication of the last annual report, and the interest of academic and non-governmental institutions in the follow-up procedure, has reinforced the Committee's resolve to continue to give publicity to the procedure.

556. During its forty-seventh session in March-April 1993, the Committee agreed in principle that information on follow-up activities should be made public. Discussions on this issue have been held regularly since then. During the fiftieth session in March 1994, the Committee formally adopted a number of decisions concerning the effectiveness and publicity of the follow-up procedure. These decisions were the following:

(a) Every form of publicity will be given to follow-up activities;

(b) Annual reports shall include a separate and highly visible chapter on follow-up activities under the Optional Protocol. This should clearly convey to the public which States have cooperated and which States have failed to

cooperate with the Special Rapporteur for the follow-up on Views. Paragraph 547 above conveys which States parties have and which have not provided follow-up information or cooperated with the Special Rapporteur for the follow-up on Views;

(c) Reminders shall be sent to all States parties that have failed to provide follow-up information. Thus, between December 1994 and June 1995, some 65 follow-up reminders were sent to States that had failed to reply to requests for follow-up information from the Special Rapporteur. As a result of these reminders, some States did formulate follow-up replies and forward them to the Special Rapporteur;

(d) Press communiqués will be issued once a year after the summer session of the Committee, highlighting both positive and negative developments concerning the Committee's and the Special Rapporteur's follow-up activities;

(e) The Committee welcomes information which non-governmental organizations might wish to submit as to what measures States parties have taken, or failed to take, in respect of the implementation of the Committee's Views;

(f) The Special Rapporteur and members of the Committee should, as appropriate, establish contacts with particular Governments and permanent missions to the United Nations to make further inquiries about the implementation of the Committee's Views. Following the fifty-second session, Committee member Julio Prado Vallejo had contacts with government authorities in Colombia and Peru, during which the question of follow-up to some of the Committee's Views was raised. During the fifty-third session of the Committee (March-April 1995), the Special Rapporteur met with the Permanent Representatives of Colombia, Suriname and Zambia to discuss what the Governments concerned might be prepared to do to give effect to the Committee's Views adopted in respect of those States. The Special Rapporteur regrets that, during the same session, he was unable to establish direct contacts with the Permanent Missions of Equatorial Guinea and Zaire;

(g) The Committee should draw the attention of States parties, at their biannual meetings, to the failure of certain States to implement the Committee's Views and to cooperate with the Special Rapporteur in providing information on the implementation of Views.

Follow-up mission by the Special Rapporteur to Jamaica, June 1995

557. In accordance with his mandate under rule 95 of the rules of procedure, the Special Rapporteur conducted his first mission in the context of the follow-up procedure. From 24 to 30 June 1995, he visited Jamaica and held discussions with the Government of Jamaica, judicial authorities, and non-governmental organizations.

558. During his mission, the Special Rapporteur had the opportunity to meet many government officials and representatives of the judiciary and the penitentiary system, as well as the Governor-General of Jamaica. He appreciates the spirit of cooperation and the frankness of the exchanges which characterized the entire mission.

559. The Special Rapporteur thoroughly discussed the status of implementation of the Committee's Views adopted in respect of Jamaica with the authorities. He was informed of the constitutional and legal constraints which have tended to

make it difficult for the State party to implement fully the Committee's Views. Nonetheless, many death sentences had recently been commuted, and the Minister for Foreign Affairs pledged full cooperation with the Committee and the Special Rapporteur under the follow-up procedure.

560. At other levels, the Special Rapporteur was told that the Jamaican Government considers the Committee's Views to be mere recommendations, thereby implying a reluctance to comply with the Views. The Special Rapporteur did indicate, while acknowledging the State party's readiness to "consider" the Committee's Views, that compliance with its Views still left much to be desired.

561. Finally, the Special Rapporteur was able to ascertain the efforts undertaken by the Government of Jamaica to improve certain aspects of the administration of justice. He was informed about efforts to improve prison facilities in general and sanitary conditions in particular; about improvements in the examination of allegations of prisoner abuse by wardens and the payment of compensation to inmates, where appropriate; about improvements relating to the availability of written judgements of the Court of Appeal of Jamaica; about better medical care in the penitentiary system; and about draft legislation currently under consideration which would greatly improve the system of legal aid in capital cases. The Special Rapporteur expresses his hope that these reforms or improvements will be implemented and effected with all due speed.

562. On 25 July 1995, the Special Rapporteur reported to the Committee on his mission to Jamaica. Following its discussion on the mission, the Committee, noting the improved compliance by Jamaica with its Views, requested the Special Rapporteur to continue his contacts with the Government of Jamaica, with a view to ensuring that Jamaica achieved a greater degree of compliance with the Committee's decisions. In that context, the Special Rapporteur recalled that formal follow-up replies remained outstanding in respect of 18 Views, and noted that the State party had promised to forward the outstanding replies with all due speed.

Concern over instances of non-cooperation under the follow-up mandate

563. In spite of the progress in collecting follow-up information since the adoption of the last annual report, the Committee and the Special Rapporteur note with concern that a number of countries have either not provided any follow-up information or have not replied to requests from the Special Rapporteur. Those States which have not replied in respect of at least two follow-up requests, or which have not replied to requests for information in spite of two follow-up reminders, are: Bolivia (no reply in respect of two cases); Dominican Republic (no reply in respect of two cases); Equatorial Guinea (no reply in respect of two cases); France (no follow-up reply in respect of one decision in spite of two reminders); Peru (no reply in respect of two cases); Suriname (no reply in respect of eight cases); Uruguay (no reply in respect of two cases); and Zaire (no reply in respect of nine cases).

564. The Special Rapporteur urges these States parties and all those which have failed to reply to his requests for follow-up information to do so in a timely manner. In future annual reports, the Committee will single out the worst cases of non-compliance with its Views and report on them individually, should there be no reaction to further requests for follow-up information.

565. The Committee reconfirms that it will keep the functioning of the follow-up procedure under constant review. It has requested that at least one follow-up

mission per year be budgeted and scheduled by the Centre for Human Rights in the years to come.

Notes

[1] Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40 (A/49/40), vol. I, para. 14.

[2] Ibid., annex XI.

[3] Ibid., vol. I, paras. 36-56.

[4] A/CONF.157/24 (Part I), chap. III.

[5] Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 40 (A/36/40), annex V.

[6] Ibid., Forty-fifth Session, Supplement No. 40 (A/45/40), vol. I, para. 12.

[7] Ibid., Forty-sixth Session, Supplement No. 40 (A/46/40), paras. 21 and 32 and annex VII.

[8] Ibid., Forty-eighth Session, Supplement No. 40 (A/48/40), vol. I, paras. 166-182.

[9] Ibid., Forty-ninth Session, Supplement No. 40 (A/49/40), para. 61.

[10] At its 1382nd meeting (fifty-second session), on 2 November 1994.

[11] At its 1383rd meeting (fifty-second session), on 3 November 1994.

[12] At its 1411th meeting (fifty-third session), on 5 April 1995.

[13] At the 1412th meeting (fifty-third session), on 5 April 1995.

[14] At its 1414th meeting (fifty-third session), on 6 April 1995.

[15] Consistent with the practice of the Committee, the State party's expert, Mr. Buergenthal, did not take part in the formulation of these comments.

[16] At its 1413th meeting (fifty-third session), on 6 April 1995.

[17] At its 1440th meeting (fifty-fourth session), on 26 July 1995.

[18] At its 1441st meeting (fifty-fourth session), on 26 July 1995.

[19] At its 1442nd meeting (fifty-fourth session), on 27 July 1995.

[20] In accordance with the Committee's practice, the expert from the State party, Mrs. Higgins, did not take part in the preparation of the comments.

[21] The written observations setting out the view of the Government on the Committee's general comment No. 24 (52) were submitted to the Chairman of the Committee on 21 July 1995.

[22] At its 1443rd meeting (fifty-fourth session), on 27 July 1995.

[23] See, inter alia, the judgement of the Judicial Committee of the Privy Council dated 2 November 1993 (Pratt and Morgan v. Jamaica).

[24] General comment No. 17, adopted by the Committee at its thirty-fifth session in 1989.

[25] Official Records of the General Assembly, Forty-fifth Session, Supplement No. 40 (A/45/40).

[26] Ibid., Forty-ninth Session, Supplement No. 40 (A/49/40), vol. I, annex VI.

ANNEX I

States parties to the International Covenant on Civil and Political Rights and to the Optional Protocols and States which have made the declaration under article 41 of the Covenant as at 28 July 1995

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
A. States parties to the International Covenant on Civil and Political Rights (131)		
Afghanistan	24 January 1983 (a)	24 April 1983
Albania	4 October 1991 (a)	4 January 1992
Algeria	12 September 1989	12 December 1989
Angola	10 January 1992 (a)	10 April 1992
Argentina	8 August 1986	8 November 1986
Armenia	23 June 1993	23 September 1993
Australia	13 August 1980	13 November 1980
Austria	10 September 1978	10 December 1978
Azerbaijan	13 August 1992 (a)	13 November 1992
Barbados	5 January 1973 (a)	23 March 1976
Belarus	12 November 1973	23 March 1976
Belgium	21 April 1983	21 July 1983
Benin	12 March 1992 (a)	12 June 1992
Bolivia	12 August 1982 (a)	12 November 1982
Bosnia and Herzegovina	1 September 1993 (d)	6 March 1992
Brazil	24 January 1992 (a)	24 April 1992
Bulgaria	21 September 1970	23 March 1976
Burundi	9 May 1990 (a)	9 August 1990
Cambodia	26 May 1992 (a)	26 August 1992
Cameroon	27 June 1984 (a)	27 September 1984
Canada	19 May 1976 (a)	19 August 1976
Cape Verde	6 August 1993 (a)	6 November 1993
Central African Republic	8 May 1981 (a)	8 August 1981
Chad	9 June 1995 (a)	9 September 1995
Chile	10 February 1972	23 March 1976
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983 (a)	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Côte d'Ivoire	26 March 1992 (a)	26 June 1992
Croatia	12 October 1992 (d)	8 October 1991

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
Cyprus	2 April 1969	23 March 1976
Czech Republic	22 February 1993 (d)	1 January 1993
Democratic People's Republic of Korea	14 September 1981 (a)	14 December 1981
Denmark	6 January 1972	23 March 1976
Dominica	17 June 1993 (a)	17 September 1993
Dominican Republic	4 January 1978 (a)	4 April 1978
Ecuador	6 March 1969	23 March 1976
Egypt	14 January 1982	14 April 1982
El Salvador	30 November 1979	29 February 1980
Equatorial Guinea	25 September 1987 (a)	25 December 1987
Estonia	21 October 1991 (a)	21 January 1992
Ethiopia	11 June 1993 (a)	11 September 1993
Finland	19 August 1975	23 March 1976
France	4 November 1980 (a)	4 February 1981
Gabon	21 January 1983 (a)	21 April 1983
Gambia	22 March 1979 (a)	22 June 1979
Georgia	3 May 1994 (a)	3 August 1994
Germany	17 December 1973	23 March 1976
Grenada	6 September 1991 (a)	6 December 1991
Guatemala	6 May 1992 (a)	5 August 1992
Guinea	24 January 1978	24 April 1978
Guyana	15 February 1977	15 May 1977
Haiti	6 February 1991 (a)	6 May 1991
Hungary	17 January 1974	23 March 1976
Iceland	22 August 1979	22 November 1979
India	10 April 1979 (a)	10 July 1979
Iran (Islamic Republic of)	24 June 1975	23 March 1976
Iraq	25 January 1971	23 March 1976
Ireland	8 December 1989	8 March 1990
Israel	3 October 1991 (a)	3 January 1992
Italy	15 September 1978	15 December 1978
Jamaica	3 October 1975	23 March 1976
Japan	21 June 1979	21 September 1979
Jordan	28 May 1975	23 March 1976
Kenya	1 May 1972 (a)	23 March 1976
Kyrgyzstan	7 October 1994 (a)	7 January 1995
Latvia	14 April 1992 (a)	14 July 1992
Lebanon	3 November 1972 (a)	23 March 1976
Lesotho	9 September 1992 (a)	9 December 1992
Libyan Arab Jamahiriya	15 May 1970 (a)	23 March 1976

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
Lithuania	20 November 1991 (a)	20 February 1992
Luxembourg	18 August 1983	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	22 December 1993 (a)	22 March 1994
Mali	16 July 1974 (a)	23 March 1976
Malta	13 September 1990 (a)	13 December 1990
Mauritius	12 December 1973 (a)	23 March 1976
Mexico	23 March 1981 (a)	23 June 1981
Mongolia	18 November 1974	23 March 1976
Morocco	3 May 1979	3 August 1979
Mozambique	21 July 1993 (a)	21 October 1993
Namibia	28 November 1994 (a)	28 February 1995
Nepal	14 May 1991	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	28 December 1978	28 March 1979
Nicaragua	12 March 1980 (a)	12 June 1980
Niger	7 March 1986 (a)	7 June 1986
Nigeria	29 July 1993 (a)	29 October 1993
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Paraguay	10 June 1992 (a)	10 September 1992
Peru	28 April 1978	28 July 1978
Philippines	23 October 1986	23 January 1987
Poland	18 March 1977	18 June 1977
Portugal	15 June 1978	15 September 1978
Republic of Korea	10 April 1990 (a)	10 July 1990
Republic of Moldova	26 January 1993 (a)	26 April 1993
Romania	9 December 1974	23 March 1976
Russian Federation	16 October 1973	23 March 1976
Rwanda	16 April 1975 (a)	23 March 1976
Saint Vincent and the Grenadines	9 November 1981 (a)	9 February 1982
San Marino	18 October 1985 (a)	18 January 1986
Senegal	13 February 1978	13 May 1978
Seychelles	5 May 1992 (a)	5 August 1992
Slovakia	28 May 1993 (d)	1 January 1993
Slovenia	6 July 1992 (d)	25 June 1991
Somalia	24 January 1990 (a)	24 April 1990
Spain	27 April 1977	27 July 1977
Sri Lanka	11 June 1980 (a)	11 September 1980
Sudan	18 March 1986 (a)	18 June 1986

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
Suriname	28 December 1976 (a)	28 March 1977
Sweden	6 December 1971	23 March 1976
Switzerland	18 June 1992 (a)	18 September 1992
Syrian Arab Republic	21 April 1969 (a)	23 March 1976
The former Yugoslav Republic of Macedonia	18 January 1994 (d)	17 September 1991
Togo	24 May 1984 (a)	24 August 1984
Trinidad and Tobago	21 December 1978 (a)	21 March 1979
Tunisia	18 March 1969	23 March 1976
Uganda	21 June 1995 (a)	21 September 1995
Ukraine	12 November 1973	23 March 1976
United Kingdom of Great Britain and Northern Ireland	20 May 1976	20 August 1976
United Republic of Tanzania	11 June 1976 (a)	11 September 1976
United States of America	8 June 1992	8 September 1992
Uruguay	1 April 1970	23 March 1976
Venezuela	10 May 1978	10 August 1978
Viet Nam	24 September 1982 (a)	24 December 1982
Yemen	9 February 1987 (a)	9 May 1987
Yugoslavia	2 June 1971	23 March 1976
Zaire	1 November 1976 (a)	1 February 1977
Zambia	10 April 1984 (a)	10 July 1984
Zimbabwe	13 May 1991 (a)	13 August 1991

B. States parties to the Optional Protocol (84)

Algeria	12 September 1989 (a)	12 December 1990
Angola	10 January 1992 (a)	10 April 1992
Argentina	8 August 1986 (a)	8 November 1986
Armenia	23 June 1993	23 September 1993
Australia	25 September 1991 (a)	25 December 1991
Austria	10 December 1987	10 March 1988
Barbados	5 January 1973 (a)	23 March 1976
Belarus	30 September 1992 (a)	30 December 1992
Belgium	17 May 1994 (a)	17 August 1994
Benin	12 March 1992 (a)	12 June 1992

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
Bolivia	12 August 1982 (a)	12 November 1982
Bosnia and Herzegovina	1 March 1995	1 June 1995
Bulgaria	26 March 1992 (a)	26 June 1992
Cameroon	27 June 1984 (a)	27 September 1984
Canada	19 May 1976 (a)	19 August 1976
Central African Republic	8 May 1981 (a)	8 August 1981
Chad	9 June 1995 (a)	9 September 1995
Chile	28 May 1992 (a)	28 August 1992
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983 (a)	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Cyprus	15 April 1992	15 July 1992
Czech Republic	22 February 1993 (d)	1 January 1993
Denmark	6 January 1972	23 March 1976
Dominican Republic	4 January 1978 (a)	4 April 1978
Ecuador	6 March 1969	23 March 1976
El Salvador	6 June 1995	6 September 1995
Equatorial Guinea	25 September 1987 (a)	25 December 1987
Estonia	21 October 1991 (a)	21 January 1992
Finland	19 August 1975	23 March 1976
France	17 February 1984 (a)	17 May 1984
Gambia	9 June 1988 (a)	9 September 1988
Georgia	3 May 1994 (a)	3 August 1994
Germany	25 August 1993	25 November 1993
Guinea	17 June 1993	17 September 1993
Guyana	10 May 1993 (a)	10 August 1993
Hungary	7 September 1988 (a)	7 December 1988
Iceland	22 August 1979 (a)	22 November 1979
Ireland	8 December 1989	8 March 1990
Italy	15 September 1978	15 December 1978
Jamaica	3 October 1975	23 March 1976
Kyrgyzstan	7 October 1994 (a)	7 January 1995
Latvia	22 June 1994 (a)	22 September 1994
Libyan Arab Jamahiriya	16 May 1989 (a)	16 August 1989
Lithuania	20 November 1991 (a)	20 February 1992
Luxembourg	18 August 1983 (a)	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malta	13 September 1990 (a)	13 December 1990
Mauritius	12 December 1973 (a)	23 March 1976
Mongolia	16 April 1991 (a)	16 July 1991

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
Namibia	28 November 1994 (a)	28 February 1995
Nepal	14 May 1991 (a)	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	26 May 1989 (a)	26 August 1989
Nicaragua	12 March 1980 (a)	12 June 1980
Niger	7 March 1986 (a)	7 June 1986
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Paraguay	10 January 1995 (a)	10 April 1995
Peru	3 October 1980	3 January 1981
Philippines	22 August 1989 (a)	22 November 1989
Poland	7 November 1991 (a)	7 February 1992
Portugal	3 May 1983	3 August 1983
Republic of Korea	10 April 1990 (a)	10 July 1990
Romania	20 July 1993 (a)	20 October 1993
Russian Federation	1 October 1991 (a)	1 January 1992
Saint Vincent and the Grenadines	9 November 1981 (a)	9 February 1982
San Marino	18 October 1985 (a)	18 January 1986
Senegal	13 February 1978	13 May 1978
Seychelles	5 May 1992 (a)	5 August 1992
Slovakia	28 May 1993	1 January 1993
Slovenia	16 July 1993 (a)	16 October 1993
Somalia	24 January 1990 (a)	24 April 1990
Spain	25 January 1985 (a)	25 April 1985
Suriname	28 December 1976 (a)	28 March 1977
Sweden	6 December 1971	23 March 1976
The former Yugoslav Republic of Macedonia	12 December 1994 (a)	12 March 1995
Togo	30 March 1988 (a)	30 June 1988
Trinidad and Tobago	14 November 1980 (a)	14 February 1981
Ukraine	25 July 1991 (a)	25 October 1991
Uruguay	1 April 1970	23 March 1976
Venezuela	10 May 1978	10 August 1978
Zaire	1 November 1976 (a)	1 February 1977
Zambia	10 April 1984 (a)	10 July 1984

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force

C. Status of the Second Optional Protocol aiming at the abolition of the death penalty (28)

Australia	2 October 1990 (a)	11 July 1991
Austria	2 March 1993	2 June 1993
Denmark	24 February 1994	24 May 1994
Ecuador	23 February 1993 (a)	23 May 1993
Finland	4 April 1991	11 July 1991
Germany	18 August 1992	18 November 1992
Hungary	24 February 1994 (a)	24 May 1994
Iceland	2 April 1991	11 July 1991
Ireland	18 June 1993 (a)	18 September 1993
Italy	14 February 1995	14 May 1995
Luxembourg	12 February 1992	12 May 1992
Malta	29 December 1994	29 March 1995
Mozambique	21 July 1993 (a)	21 October 1993
Namibia	28 November 1994 (a)	28 February 1995
Netherlands	26 March 1991	11 July 1991
New Zealand	22 February 1990	11 July 1991
Norway	5 September 1991	5 December 1991
Panama	21 January 1993 (a)	21 April 1993
Portugal	17 October 1990	11 July 1991
Romania	27 February 1991	11 July 1991
Seychelles	15 December 1994 (a)	15 March 1995
Slovenia	10 March 1994	10 June 1994
Spain	11 April 1991	11 July 1991
Sweden	11 May 1990	11 July 1991
Switzerland	16 June 1994 (a)	16 September 1994
The former Yugoslav Republic of Macedonia	26 January 1995 (a)	26 April 1995
Uruguay	21 January 1993	21 April 1993
Venezuela	22 February 1993	22 May 1993

State party	Valid from	Valid until
D. States which have made the declaration under article 41 of the Covenant (44)		
Algeria	12 September 1989	Indefinitely
Argentina	8 August 1986	Indefinitely
Australia	28 January 1993	Indefinitely
Austria	10 September 1978	Indefinitely
Belarus	30 September 1992	Indefinitely
Belgium	5 March 1987	Indefinitely
Bosnia and Herzegovina	6 March 1992	Indefinitely
Bulgaria	12 May 1993	Indefinitely
Canada	29 October 1979	Indefinitely
Chile	11 March 1990	Indefinitely
Congo	7 July 1989	Indefinitely
Czech Republic	1 January 1993	Indefinitely
Denmark	23 March 1976	Indefinitely
Ecuador	24 August 1984	Indefinitely
Finland	19 August 1975	Indefinitely
Gambia	9 June 1988	Indefinitely
Germany	28 March 1979	27 March 1996
Guyana	10 May 1993	Indefinitely
Hungary	7 September 1988	Indefinitely
Iceland	22 August 1979	Indefinitely
Ireland	8 December 1989	Indefinitely
Italy	15 September 1978	Indefinitely
Luxembourg	18 August 1983	Indefinitely
Malta	13 September 1990	Indefinitely
Netherlands	11 December 1978	Indefinitely
New Zealand	28 December 1978	Indefinitely
Norway	23 March 1976	Indefinitely
Peru	9 April 1984	Indefinitely
Philippines	23 October 1986	Indefinitely
Poland	25 September 1990	Indefinitely
Republic of Korea	10 April 1990	Indefinitely
Russian Federation	1 October 1991	Indefinitely
Senegal	5 January 1981	Indefinitely
Slovakia	1 January 1993	Indefinitely
Slovenia	6 July 1992	Indefinitely
Spain	25 January 1985	25 January 1993
Sri Lanka	11 June 1980	Indefinitely
Sweden	23 March 1976	Indefinitely
Switzerland	18 September 1992	18 September 1997
Tunisia	24 June 1993	Indefinitely

State party	Valid from	Valid until
Ukraine	28 July 1992	Indefinitely
United Kingdom of Great Britain and Northern Ireland	20 May 1976	Indefinitely
United States of America	8 September 1992	Indefinitely
Zimbabwe	20 August 1991	Indefinitely

ANNEX II

Members and officers of the Human Rights Committee, 1995-1996

A. Membership

Mr. Francisco José AGUILAR URBINA*	Costa Rica
Mr. Nisuke ANDO**	Japan
Mr. Prafullachandra Natwarlal BAGHWATI**	India
Mr. Tamás BÁN*	Hungary
Mr. Marco Tulio BRUNI CELLI*	Venezuela
Mr. Thomas BUERGENTHAL**	United States of America
Mrs. Christine CHANET**	France
Mr. Omran EL SHAFEI**	Egypt
Mrs. Elizabeth EVATT*	Australia
Mr. Laurel FRANCIS*	Jamaica
Mrs. Rosalyn HIGGINS*	United Kingdom of Great Britain and Northern Ireland
Mr. Eckart KLEIN**	Germany
Mr. David KRETZMER**	Israel
Mr. Rajsoomer LALLAH*	Mauritius
Mr. Andreas V. MAVROMMATIS*	Cyprus
Ms. Cecilia MÉDINA QUIROGA**	Chile
Mr. Fausto POCAR*	Italy
Mr. Julio PRADO VALLEJO**	Ecuador

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* Term expires on 31 December 1996.
** Term expires on 31 December 1998.

B. Officers

The officers of the Committee, elected for two-year terms at the 1387th and 1399th meetings, held on 20 and 28 March 1995, are as follows:

Chairman: Mr. Francisco José AGUILAR URBINA

Vice-Chairmen: Mr. Prafullachandra Natwarlal BAGHWATI
Mr. Tamás BÁN
Mr. Omran EL SHAFEI

Rapporteur: Mrs. Christine CHANET

ANNEX III

Submission of reports and additional information by States parties under article 40 of the Covenant during the period under review[1]

State party	Type of report	Date due	Date of submission	Date of written reminder(s) sent, during the period under review, to States whose reports have not yet been submitted
Afghanistan	Third	23 April 1994	Not yet received	-
Albania	Initial	3 January 1993	Not yet received	(4) 12 December 1994 (5) 29 June 1995
Angola	Initial[2]	9 April 1993	Not yet received	-
Armenia	Initial	22 September 1994	Not yet received	(1) 12 December 1994 (2) 29 June 1995
Australia	Third	12 November 1991	Not yet received	(6) 12 December 1994 (7) 29 June 1995
Austria	Third	9 April 1993	Not yet received	(3) 12 December 1994 (4) 29 June 1995
Barbados	Third	11 April 1991	Not yet received	(8) 12 December 1994 (9) 29 June 1995
Belarus	Fourth	4 November 1993	11 April 1995	-
Belgium	Third	20 July 1994	Not yet received	(1) 12 December 1994 (2) 29 June 1995
Benin	Initial	11 June 1993	Not yet received	(2) 29 June 1995
Bolivia	Second[3]	13 July 1990	Not yet received	(8) 29 June 1995
	Third	11 November 1994	Not yet received	(1) 29 June 1995
Bosnia and Herzegovina	Initial	5 March 1995	Not yet received	(1) 29 June 1995
Brazil	Initial	23 April 1993	17 November 1994	-
Bulgaria	Third[4]	31 December 1994	Not yet received	(1) 29 June 1995
Cambodia	Initial	25 August 1993	Not yet received	(2) 12 December 1994
Canada	Fourth	4 April 1995	Not yet received	(1) 29 June 1995
Cape Verde	Initial	5 November 1994	Not yet received	(1) 29 June 1995
Central African Republic	Second[5]	9 April 1989	Not yet received	(11) 12 December 1994 (12) 29 June 1995
	Third	7 August 1992	Not yet received	(5) 12 December 1994 (6) 29 June 1995
Chile	Fourth	28 April 1994	Not yet received	(1) 12 December 1994 (2) 29 June 1995
Congo	Second	4 January 1990	Not yet received	(10) 12 December 1994 (11) 29 June 1995
	Third	4 January 1995	Not yet received	(1) 29 June 1995

State party	Type of report	Date due	Date of submission	Date of written reminder(s) sent, during the period under review, to States whose reports have not yet been submitted
Côte d'Ivoire	Initial	25 June 1993	Not yet received	(3) 12 December 1994 (4) 29 June 1995
Croatia	Initial	7 October 1992	Not yet received	(3) 12 December 1994 (4) 29 June 1995
Cyprus	Third	18 August 1989	28 December 1994	-
Czech Republic	Initial	31 December 1993	Not yet received	(1) 29 June 1995
Democratic People's Republic of Korea	Second	13 December 1987	Not yet received	(14) 12 December 1994 (15) 29 June 1995
	Third	13 December 1992	Not yet received	(4) 12 December 1994 (5) 29 June 1995
Denmark	Third	1 November 1990	7 April 1995	-
Dominica	Initial	16 September 1994	Not yet received	(1) 12 December 1994 (2) 29 June 1995
Dominican Republic	Fourth	3 April 1994	Not yet received	(2) 12 December 1994 (3) 29 June 1995
Ecuador	Fourth	4 November 1993	Not yet received	(3) 12 December 1994 (4) 29 June 1995
Egypt	Third	31 December 1994	Not yet received	(1) 29 June 1995
El Salvador	Third	28 February 1991	-	-
Equatorial Guinea	Initial	24 December 1988	Not yet received	(12) 12 December 1994 (13) 29 June 1995
	Second	24 December 1993	Not yet received	(2) 12 December 1994 (3) 29 June 1995
Estonia	Initial	20 January 1993	27 September 1994	-
Ethiopia	Initial	10 September 1994	Not yet received	(1) 12 December 1994 (2) 29 June 1995
Finland	Fourth	18 August 1994	Not yet received	(1) 12 December 1994 (2) 29 June 1995
France	Third	3 February 1992	Not yet received	(6) 12 December 1994
Gabon	Initial	20 April 1984	Not yet received	(21) 12 December 1994 (22) 29 June 1995
	Second	20 April 1989	Not yet received	(11) 12 December 1994 (12) 29 June 1995
	Third	20 April 1994	Not yet received	(2) 12 December 1994 (3) 29 June 1995
Gambia	Second	21 June 1985	Not yet received	(20) 12 December 1994 (21) 29 June 1995
	Third	21 June 1990	Not yet received	(9) 12 December 1994 (10) 29 June 1995

State party	Type of report	Date due	Date of submission	Date of written reminder(s) sent, during the period under review, to States whose reports have not yet been submitted
Germany	Fourth	3 August 1993	Not yet received	(3) 12 December 1994 (4) 29 June 1995
Grenada	Initial	5 December 1992	Not yet received	(4) 12 December 1994 (5) 29 June 1995
Guatemala	Initial	4 August 1993	7 December 1994	-
Guinea	Third	31 December 1994	Not yet received	(1) 29 June 1995
Guyana	Second	10 April 1987	Not yet received	(16) 12 December 1994 (17) 29 June 1995
	Third	10 April 1992	Not yet received	(6) 12 December 1994 (7) 29 June 1995
Haiti	Initial[b]	5 May 1992	-	-
Iceland	Third	31 December 1994	23 March 1995	-
India	Third[c]	31 March 1992	Not yet received	(6) 12 December 1994 (7) 29 June 1995
Iran (Islamic Republic of)	Third[c]	31 December 1994	Not yet received	(1) 29 June 1995
Iraq	Fourth	4 April 1995	Not yet received	-
Israel	Initial	2 January 1993	Not yet received	(4) 12 December 1994 (5) 29 June 1995
Jamaica	Second	1 August 1986	Not yet received	(16) 12 December 1994 (15) 29 June 1995
	Third	1 August 1991	Not yet received	(7) 12 December 1994 (8) 29 June 1995
Kenya	Second	11 April 1986	Not yet received	(18) 12 December 1994 (19) 29 June 1995
	Third	11 April 1991	Not yet received	(8) 12 December 1994 (9) 29 June 1995
Latvia	Initial	13 April 1993	26 September 1994	-
Lebanon	Second	21 March 1986	Not yet received	(19) 12 December 1994 (20) 29 June 1995
	Third	21 March 1988	Not yet received	(14) 12 December 1994 (15) 29 June 1995
	Fourth	21 March 1993	Not yet received	(2) 12 December 1994 (3) 29 June 1995
Lesotho	Initial	8 December 1994	Not yet received	(1) 29 June 1995
Lithuania	Initial	19 February 1993	Not yet received	(4) 12 December 1994 (5) 29 June 1995
Libyan Arab Jamahiriya	Third[d]	4 February 1988	-	-

State party	Type of report	Date due	Date of submission	Date of written reminder(s) sent, during the period under review, to States whose reports have not yet been submitted
Luxembourg	Third	17 November 1994	Not yet received	(1) 29 June 1994
Madagascar	Third[a]	31 July 1992	Not yet received	(5) 12 December 1994 (6) 29 June 1995
	Fourth	3 August 1993	Not yet received	(3) 12 December 1994 (4) 29 June 1995
Malawi	Initial	21 March 1995	Not yet received	(1) 29 June 1995
Mali	Second	11 April 1986	Not yet received	(18) 12 December 1994 (19) 29 June 1995
	Third	11 April 1991	Not yet received	(8) 12 December 1994 (9) 29 June 1995
Mauritius	Third	18 July 1990	2 June 1995	-
	Fourth	4 November 1993	-	-
Mongolia	Fourth	4 April 1995	Not yet received	(1) 29 June 1995
Mozambique	Initial	20 October 1994	Not yet received	(1) 12 December 1994 (2) 29 June 1995
Netherlands	Third	31 October 1991	6 February 1995	-
Nicaragua	Third	11 June 1991	Not yet received	(7) 12 December 1994 (8) 29 June 1995
Niger	Second[a]	31 March 1994	Not yet received	(2) 12 December 1994 (3) 29 June 1995
Nigeria	Initial	28 October 1994	Not yet received	(1) 12 December 1994 (2) 29 June 1995
Panama	Third[a]	31 March 1992	Not yet received	(6) 12 December 1994 (7) 29 June 1995
	Fourth	6 June 1993	Not yet received	(3) 12 December 1994 (4) 29 June 1995
Peru	Third	9 April 1993	24 October 1994	-
Philippines	Second	22 January 1993	Not yet received	(4) 12 December 1994 (5) 29 June 1995
Poland	Fourth	27 October 1994	Not yet received	(1) 12 December 1994 (2) 29 June 1995
Portugal	Third	1 August 1991	Not yet received	(7) 12 December 1994
Republic of Moldova	Initial	25 April 1994	Not yet received	(1) 12 December 1994 (2) 29 June 1995
Romania	Fourth	31 December 1994	Not yet received	(1) 29 June 1995
Russian Federation	Fourth	4 November 1993	27 September 1994	-
Rwanda[b]	Third	10 April 1992	Not yet received	-

State party	Type of report	Date due	Date of submission	Date of written reminder(s) sent, during the period under review, to States whose reports have not yet been submitted
Saint Vincent and the Grenadines	Second[o]	31 October 1991	Not yet received	(7) 12 December 1994 (8) 29 June 1995
	Third	8 February 1993	Not yet received	(4) 12 December 1994 (5) 29 June 1995
San Marino	Second	17 January 1992	Not yet received	(6) 12 December 1994 (7) 29 June 1995
Senegal	Fourth	4 April 1995	Not yet received	(1) 29 June 1995
Seychelles	Initial	4 August 1993	Not yet received	(3) 12 December 1994 (4) 29 June 1995
Slovakia	Initial	31 December 1993	Not yet received	(1) 29 June 1995
Slovenia	Initial	24 June 1992	1 October 1993	-
Somalia	Initial	23 April 1991	Not yet received	(7) 12 December 1994 (8) 29 June 1995
Sudan	Second	17 June 1992	Not yet received	(4) 12 December 1994 (5) 29 June 1995
Suriname	Second	2 August 1985	Not yet received	(19) 12 December 1994 (20) 29 June 1995
	Third	2 August 1990	Not yet received	(9) 12 December 1994 (10) 29 June 1995
Sweden	Fourth	5 December 1994	27 October 1994	-
Switzerland	Initial	17 September 1993	24 February 1995	-
Syrian Arab Republic	Second	18 August 1984	Not yet received	(22) 12 December 1994 (23) 29 June 1995
	Third	18 August 1989	Not yet received	(11) 12 December 1994 (12) 29 June 1995
	Fourth	18 August 1994	Not yet received	(1) 12 December 1994 (2) 29 June 1995
The former Yugoslav Republic of Macedonia	Initial	6 September 1992	Not yet received	(1) 29 June 1995
Trinidad and Tobago	Third	20 March 1990	Not yet received	(10) 12 December 1994 (11) 29 June 1995
	Fourth	20 March 1995	Not yet received	(1) 29 June 1995
United Kingdom of Great Britain and Northern Ireland	Fourth	19 May 1994	14 October 1994	-
United Republic of Tanzania	Third[p]	31 December 1993	Not yet received	(2) 12 December 1994 (3) 29 June 1995
Uruguay	Fourth	31 December 1994	Not yet received	(1) 29 June 1995

State party	Type of report	Date due	Date of submission	Date of written reminder(s) sent, during the period under review, to States whose reports have not yet been submitted
Venezuela	Third[a]	31 December 1993	Not yet received	(2) 12 December 1994 (3) 29 June 1995
Viet Nam	Second[f]	31 July 1991	Not yet received	(7) 12 December 1994 (8) 29 June 1995
	Third	23 December 1993	Not yet received	(2) 12 December 1994 (3) 29 June 1995
Yugoslavia	Fourth	3 August 1993	Not yet received	(3) 12 December 1994 (4) 29 June 1995
Zaire	Third[e]	31 July 1991	Not yet received	(7) 12 December 1994 (8) 29 June 1995
Zambia	Second	9 July 1990	27 January 1995	-
Zimbabwe	Initial	12 August 1992	Not yet received	(5) 12 December 1994 (6) 29 June 1995

Notes

[a] From 1 August 1994 to 29 July 1995 (end of the fifty-fourth session).

[b] Notes verbales were sent to Angola and Rwanda on 12 December 1994 and 23 June 1995, as reminders to send the initial report pursuant to a special decision taken by the Committee.

[c] At its thirty-sixth session (914th meeting), the Committee decided to extend the deadline for the submission of the second periodic report of Bolivia from 11 November 1988 to 13 July 1990.

[d] At its forty-eighth session (1258th meeting), the Committee decided to extend the deadline for the submission of the third periodic report of Bulgaria from 28 April 1989 to 31 December 1994.

[e] At its thirty-second session (794th meeting), the Committee decided to extend the deadline for the submission of the second periodic report of the Central African Republic from 7 August 1987 to 9 April 1989.

[f] At its forty-eighth session (1258th meeting), the Committee decided to extend the deadline for the submission of the third periodic report of Egypt from 13 April 1993 to 31 December 1994.

[g] Pursuant to a decision taken by the Committee at its fiftieth session (1319th meeting), the new date for the submission of the third periodic report of El Salvador is 31 December 1995.

[h] Pursuant to a decision taken by the Committee at its fifty-third session (1415th meeting), the new date for the submission of the initial report of Haiti is 31 December 1996.

[i] At its forty-first session (1062nd meeting), the Committee decided to extend the deadline for the submission of the third periodic report of India from 9 July 1990 to 31 March 1992.

[j] At its forty-eighth session (1258th meeting), the Committee decided to extend the deadline for the submission of the third periodic report of the Islamic Republic of Iran from 21 March 1988 to 31 December 1994.

[k] Pursuant to a decision taken by the Committee at its fifty-second session (1386th meeting), the new date for the submission of the third periodic report of the Libyan Arab Jamahiriya is 31 December 1995.

[l] At its forty-third session (1112th meeting), the Committee decided to extend the deadline for the submission of the third periodic report of Madagascar from 3 August 1988 to 31 July 1992.

[m] At its forty-seventh session (1215th meeting), the Committee decided to extend the deadline for the submission of the second periodic report of Niger from 6 June 1992 to 31 March 1994.

[n] At its forty-first session (1062nd meeting), the Committee decided to extend the deadline for the submission of the third periodic report of Panama from 6 June 1988 to 31 March 1992.

[o] At its thirty-eighth session (973rd meeting), the Committee decided to extend the deadline for the submission of the second periodic report of Saint Vincent and the Grenadines from 8 February 1988 to 31 October 1991.

[p] At its forty-sixth session (1205th meeting), the Committee decided to extend the deadline for the submission of the third periodic report of the United Republic of Tanzania from 11 April 1991 to 31 December 1993.

[q] At its forty-sixth session (1205th meeting), the Committee decided to extend the deadline for the submission of the third periodic report of Venezuela from 1 November 1991 to 31 December 1993.

[r] At its thirty-ninth session (1003rd meeting), the Committee decided to extend the deadline for the submission of the second periodic report of Viet Nam from 23 December 1988 to 31 July 1991.

[s] At its thirty-ninth session (1003rd meeting), the Committee decided to extend the deadline for the submission of the third periodic report of Zaire from 30 January 1988 to 31 July 1991.

ANNEX IV

Status of reports considered during the period under review and of reports still pending before the Committee

State party	Date due	Date of submission	Meetings at which considered
		A. Initial reports	
Brazil	23 April 1993	17 November 1994	Not yet considered
Estonia	20 January 1993	27 September 1994	Not yet considered
Guatemala	4 August 1993	7 December 1994	Not yet considered
Latvia	13 April 1993	26 September 1994	1421st, 1422nd and 1425th (fifty-fourth session)
Nepal	13 August 1992	30 March 1994	1359th and 1363rd (fifty-second session)
Paraguay	9 September 1993	1 February 1994	1392nd and 1396th (fifty-third session)
Switzerland	17 September 1993	24 February 1995	Not yet considered
United States of America	7 September 1993	29 July 1994	1401st, 1402nd, 1405th and 1406th (fifty-third session)
		B. Second periodic reports	
Afghanistan	23 April 1989	23 March 1992	Not yet considered
Argentina	7 November 1992	7 January 1994	1389th-1391st (fifty-third session)
Libyan Arab Jamahiriya	4 February 1983	4 February 1993	1376th-1377th[a] (fifty-second session)
Yemen	8 May 1993	10 May 1993	1403rd and 1404th (fifty-third session)
Zambia	9 July 1990	27 January 1995	Not yet considered
		C. Third periodic reports	
Cyprus	18 August 1989	28 December 1994	Not yet considered
Denmark	1 November 1990	7 April 1995	Not yet considered
Iceland	30 October 1992	23 March 1995	Not yet considered

State party	Date due	Date of submission	Meetings at which considered
Mauritius	18 July 1990	2 June 1995	Not yet considered
Morocco	31 December 1992	20 July 1993	1364th-1366th (fifty-second session)
Netherlands	31 October 1991	6 February 1995	Not yet considered
New Zealand	27 March 1990	1 April 1994	1393rd-1395th (fifty-third session)
Peru	9 April 1993	24 October 1994	Not yet considered
Sri Lanka	10 September 1991	18 July 1994	1436th-1438th (fifty-fourth session)

D. Fourth periodic reports

Belarus	4 November 1993	11 April 1995	Not yet considered
Russian Federation	4 November 1994	27 September 1994	1426th-1429th (fifty-fourth session)
Spain	28 April 1994	2 June 1994	Not yet considered
Sweden	5 December 1994	27 October 1994	Not yet considered
Tunisia	4 February 1993	23 March 1993	1360th-1363rd (fifty-second session)
Ukraine	18 August 1994	13 July 1994	1418th-1420th (fifty-fourth session)
United Kingdom of Great Britain and Northern Ireland	19 May 1994	14 October 1994	1432nd-1434th (fifty-fourth session)

E. Reports submitted pursuant to a special decision taken by the Committee

Burundi[b]	-	12 July 1994	1349th and 1350th (fifty-second session)
Haiti[c]	-	28 February 1995	Not yet considered

F. Additional information submitted subsequent to the examination of initial reports by the Committee[d]

Gambia	-	5 June 1984	Not yet considered
Kenya	-	4 May 1982	Not yet considered

Notes

[a] The Committee concluded the consideration of the report of the Libyan Arab Jamahiriya, which was initiated at the forty-ninth session of the Committee, at its fifty-second session, held at the United Nations Office at Geneva from 17 October to 4 November 1994.

[b] Special decision adopted by the Committee on 27 October 1994 (fifty-second session).

[c] Special decision adopted by the Committee on 27 October 1994 (fifty-second session).

[d] At its twenty-fifth session (601st meeting), the Committee decided to consider additional information submitted subsequent to the examination of initial reports together with the State party's second periodic report.

ANNEX V

General comments adopted under article 40, paragraph 4, of the International Covenant on Civil and Political Rights[a]

General comment No. 24 (52)[b] and [c]

General comment on issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant

1. As of 1 November 1994, 46 of the 127 States parties to the International Covenant on Civil and Political Rights had between them, entered 150 reservations of varying significance to their acceptance of the obligations of the Covenant. Some of these reservations exclude the duty to provide and guarantee particular rights in the Covenant. Others are couched in more general terms, often directed to ensuring the continued paramountcy of certain domestic legal provisions. Still others are directed at the competence of the Committee. The number of reservations, their content and their scope may undermine the effective implementation of the Covenant and tend to weaken respect for the obligations of States parties. It is important for States parties to know exactly what obligations they, and other States parties, have in fact undertaken. And the Committee, in the performance of its duties under either article 40 of the Covenant or under the Optional Protocols, must know whether a State is bound by a particular obligation or to what extent. This will require a determination as to whether a unilateral statement is a reservation or an interpretative declaration and a determination of its acceptability and effects.

2. For these reasons the Committee has deemed it useful to address in a general comment the issues of international law and human rights policy that arise. The general comment identifies the principles of international law that apply to the making of reservations and by reference to which their acceptability is to be tested and their purport to be interpreted. It addresses the role of States parties in relation to the reservations of others. It further addresses the role of the Committee itself in relation to reservations. And it makes certain recommendations to present States parties for a reviewing of reservations and to those States that are not yet parties about legal and human rights policy considerations to be borne in mind should they consider ratifying or acceding with particular reservations.

3. It is not always easy to distinguish a reservation from a declaration as to a State's understanding of the interpretation of a provision, or from a statement of policy. Regard will be had to the intention of the State, rather than the form of the instrument. If a statement irrespective of its name or title, purports to exclude or modify the legal effect of a treaty in its application to the State, it constitutes a reservation.[d] Conversely, if a so-called reservation merely offers a State's understanding of a provision but does not exclude or modify that provision in its application to that State, it is, in reality, not a reservation.

4. The possibility of entering reservations may encourage States which consider that they have difficulties in guaranteeing all the rights in the Covenant nonetheless to accept the generality of obligations in that instrument. Reservations may serve a useful function to enable States to adapt specific elements in their laws to the inherent rights of each person as articulated in

the Covenant. However, it is desirable in principle that States accept the full range of obligations, because the human rights norms are the legal expression of the essential rights that every person is entitled to as a human being.

5. The Covenant neither prohibits reservations nor mentions any type of permitted reservation. The same is true of the first Optional Protocol. The Second Optional Protocol provides, in article 2, paragraph 1, that "No reservation is admissible to the present Protocol, except for a reservation made at the time of ratification or accession that provides for the application of the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime". Paragraphs 2 and 3 provide for certain procedural obligations.

6. The absence of a prohibition on reservations does not mean that any reservation is permitted. The matter of reservations under the Covenant and the first Optional Protocol is governed by international law. Article 19 (3) of the Vienna Convention on the Law of Treaties provides relevant guidance.* It stipulates that where a reservation is not prohibited by the treaty or falls within the specified permitted categories, a State may make a reservation provided it is not incompatible with the object and purpose of the treaty. Even though, unlike some other human rights treaties, the Covenant does not incorporate a specific reference to the object and purpose test, that test governs the matter of interpretation and acceptability of reservations.

7. In an instrument which articulates very many civil and political rights, each of the many articles, and indeed their interplay, secures the objectives of the Covenant. The object and purpose of the Covenant is to create legally binding standards for human rights by defining certain civil and political rights and placing them in a framework of obligations which are legally binding for those States which ratify; and to provide an efficacious supervisory machinery for the obligations undertaken.

8. Reservations that offend peremptory norms would not be compatible with the object and purpose of the Covenant. Although treaties that are mere exchanges of obligations between States allow them to reserve inter se application of rules of general international law, it is otherwise in human rights treaties, which are for the benefit of persons within their jurisdiction. Accordingly, provisions in the Covenant that represent customary international law (and a fortiori when they have the character of peremptory norms) may not be the subject of reservations. Accordingly, a State may not reserve the right to engage in slavery, to torture, to subject persons to cruel, inhuman or degrading treatment or punishment, to arbitrarily deprive persons of their lives, to arbitrarily arrest and detain persons, to deny freedom of thought, conscience and religion, to presume a person guilty unless he proves his innocence, to execute pregnant women or children, to permit the advocacy of national, racial or religious hatred, to deny persons of marriageable age the right to marry, or to deny to minorities the right to enjoy their own culture, profess their own religion, or use their own language. And while reservations to particular clauses of article 14 may be acceptable, a general reservation to the right to a fair trial would not be.

9. Applying more generally the object and purpose test to the Covenant, the Committee notes that, for example, reservation to article 1 denying peoples the right to determine their own political status and to pursue their economic, social and cultural development, would be incompatible with the object and purpose of the Covenant. Equally, a reservation to the obligation to respect and ensure the rights recognized in the Covenant, and to do so on a

non-discriminatory basis (art. 2 (1)) would not be acceptable. Nor may a State reserve an entitlement not to take the necessary steps at the domestic level to give effect to the rights of the Covenant (art. 2 (2)).

10. The Committee has further examined whether categories of reservations may offend the "object and purpose" test. In particular, it falls for consideration as to whether reservations to the non-derogable provisions of the Covenant are compatible with its object and purpose. While there is no hierarchy of importance of rights under the Covenant, the operation of certain rights may not be suspended, even in times of national emergency. This underlines the great importance of non-derogable rights. But not all rights of profound importance, such as articles 9 and 27 of the Covenant, have in fact been made non-derogable. One reason for certain rights being made non-derogable is because their suspension is irrelevant to the legitimate control of the state of national emergency (for example, no imprisonment for debt, in art. 11). Another reason is that derogation may indeed be impossible (as, for example, freedom of conscience). At the same time, some provisions are non-derogable exactly because without them there would be no rule of law. A reservation to the provisions of article 4 itself, which precisely stipulates the balance to be struck between the interests of the State and the rights of the individual in times of emergency, would fall in this category. And some non-derogable rights, which in any event cannot be reserved because of their status as peremptory norms, are also of this character - the prohibition of torture and arbitrary deprivation of life are examples.[1] While there is no automatic correlation between reservations to non-derogable provisions and reservations which offend against the object and purpose of the Covenant, a State has a heavy onus to justify such a reservation.

11. The Covenant does not merely establish specific rights; it accompanies them with important supportive guarantees. These guarantees provide the necessary framework for securing the rights in the Covenant and are thus essential to its object and purpose. Some operate at the national level and some at the international level. Reservations designed to remove these guarantees are thus not acceptable. Thus, a State could not make a reservation to article 2, paragraph 3, of the Covenant, indicating that it intends to provide no remedies for human rights violations. Guarantees such as these are an integral part of the structure of the Covenant and underpin its efficacy. The Covenant also envisages, for the better attainment of its stated objectives, a monitoring role for the Committee. Reservations that purport to evade that essential element in the design of the Covenant, which is also directed to securing the enjoyment of the rights, are also incompatible with its object and purpose. A State may not reserve the right not to present a report and have it considered by the Committee. The Committee's role under the Covenant, whether under article 40 or under the Optional Protocols, necessarily entails interpreting the provisions of the Covenant and the development of a jurisprudence. Accordingly, a reservation that rejects the Committee's competence to interpret the requirements of any provisions of the Covenant would also be contrary to the object and purpose of that treaty.

12. The intention of the Covenant is that the rights contained therein should be ensured to all those under a State party's jurisdiction. To this end certain attendant requirements are likely to be necessary. Domestic laws may need to be altered properly to reflect the requirements of the Covenant; and mechanisms at the domestic level will be needed to allow the Covenant rights to be enforceable at the local level. Reservations often reveal a tendency of States not to want to change a particular law. And sometimes that tendency is elevated to a general policy. Of particular concern are widely formulated reservations which

essentially render ineffective all Covenant rights which would require any change in national law. No real international rights or obligations have thus been accepted. And when there is an absence of provisions to ensure that Covenant rights may be sued on in domestic courts, and, further, a failure to allow individual complaints to be brought to the Committee under the first Optional Protocol, all the essential elements of the Covenant guarantees have been removed.

13. The issue arises as to whether reservations are permissible under the first Optional Protocol and, if so, whether any such reservation might be contrary to the object and purpose of the Covenant or of the first Optional Protocol itself. It is clear that the first Optional Protocol is itself an international treaty, distinct from the Covenant but closely related to it. Its object and purpose is to recognize the competence of the Committee to receive and consider communications from individuals who claim to be victims of a violation by a State party of any of the rights in the Covenant. States accept the substantive rights of individuals by reference to the Covenant, and not the first Optional Protocol. The function of the first Optional Protocol is to allow claims in respect of those rights to be tested before the Committee. Accordingly, a reservation to an obligation of a State to respect and ensure a right contained in the Covenant, made under the first Optional Protocol when it has not previously been made in respect of the same rights under the Covenant, does not affect the State's duty to comply with its substantive obligation. A reservation cannot be made to the Covenant through the vehicle of the Optional Protocol but such a reservation would operate to ensure that the State's compliance with that obligation may not be tested by the Committee under the first Optional Protocol. And because the object and purpose of the first Optional Protocol is to allow the rights obligatory for a State under the Covenant to be tested before the Committee, a reservation that seeks to preclude this would be contrary to the object and purpose of the first Optional Protocol, even it not of the Covenant. A reservation to a substantive obligation made for the first time under the first Optional Protocol would seem to reflect an intention by the State concerned to prevent the Committee from expressing its views relating to a particular article of the Covenant in an individual case.

14. The Committee considers that reservations relating to the required procedures under the first Optional Protocol would not be compatible with its object and purpose. The Committee must control its own procedures as specified by the Optional Protocol and its rules of procedure. Reservations have, however, purported to limit the competence of the Committee to acts and events occurring after entry into force for the State concerned of the first Optional Protocol. In the view of the Committee this is not a reservation but, most usually, a statement consistent with its normal competence ratione temporis. At the same time, the Committee has insisted upon its competence, even in the face of such statements or observations, when events or acts occurring before the date of entry into force of the first Optional Protocol have continued to have an effect on the rights of a victim subsequent to that date. Reservations have been entered which effectively add an additional ground of inadmissibility under article 5, paragraph 2, by precluding examination of a communication when the same matter has already been examined by another comparable procedure. Insofar as the most basic obligation has been to secure independent third party review of the human rights of individuals, the Committee has, where the legal right and the subject matter are identical under the Covenant and under another international instrument, viewed such a reservation as not violating the object and purpose of the first Optional Protocol.

15. The primary purpose of the Second Optional Protocol is to extend the scope of the substantive obligations undertaken under the Covenant, as they relate to the right to life, by prohibiting execution and abolishing the death penalty.[9] It has its own provision concerning reservations, which is determinative of what is permitted. Article 2, paragraph 1, provides that only one category of reservation is permitted, namely one that reserves the right to apply the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime. Two procedural obligations are incumbent upon States parties wishing to avail themselves of such a reservation. Article 2, paragraph 1, obliges such a State to communicate to the Secretary-General, at the time of ratification or accession, the relevant provisions of its national legislation applicable during wartime. This is clearly directed towards the objectives of specificity and transparency and in the view of the Committee a purported reservation unaccompanied by such information is without legal effect. Article 2, paragraph 3, requires a State making such a reservation to notify the Secretary-General of any beginning or ending of a state of war applicable to its territory. In the view of the Committee, no State may seek to avail itself of its reservation (that is, have execution in time of war regarded as lawful) unless it has complied with the procedural requirement of article 2, paragraph 3.

16. The Committee finds it important to address which body has the legal authority to make determinations as to whether specific reservations are compatible with the object and purpose of the Covenant. As for international treaties in general, the International Court of Justice has indicated in the Reservations to the Genocide Convention Case (1951) that a State which objected to a reservation on the grounds of incompatibility with the object and purpose of a treaty could, through objecting, regard the treaty as not in effect as between itself and the reserving State. Article 20, paragraph 4, of the Vienna Convention on the Law of Treaties 1969 contains provisions most relevant to the present case on acceptance of and objection to reservations. This provides for the possibility of a State to object to a reservation made by another State. Article 21 deals with the legal effects of objections by States to reservations made by other States. Essentially, a reservation precludes the operation, as between the reserving and other States, of the provision reserved; and an objection thereto leads to the reservation being in operation as between the reserving and objecting State only to the extent that it has not been objected to.

17. As indicated above, it is the Vienna Convention on the Law of Treaties that provides the definition of reservations and also the application of the object and purpose test in the absence of other specific provisions. But the Committee believes that its provisions on the role of State objections in relation to reservations are inappropriate to address the problem of reservations to human rights treaties. Such treaties, and the Covenant specifically, are not a web of inter-State exchanges of mutual obligations. They concern the endowment of individuals with rights. The principle of inter-State reciprocity has no place, save perhaps in the limited context of reservations to declarations on the Committee's competence under article 41. And because the operation of the classic rules on reservations is so inadequate for the Covenant, States have often not seen any legal interest in or need to object to reservations. The absence of protest by States cannot imply that a reservation is either compatible or incompatible with the object and purpose of the Covenant. Objections have been occasional, made by some States but not others, and on grounds not always specified; when an objection is made, it often does not specify a legal consequence, or sometimes even indicates that the objecting party nonetheless does not regard the Covenant as not in effect as between the

parties concerned. In short, the pattern is so unclear that it is not safe to assume that a non-objecting State thinks that a particular reservation is acceptable. In the view of the Committee, because of the special characteristics of the Covenant as a human rights treaty, it is open to question what effect objections have between States inter se. However, an objection to a reservation made by States may provide some guidance to the Committee in its interpretation as to its compatibility with the object and purpose of the Covenant.

18. It necessarily falls to the Committee to determine whether a specific reservation is compatible with the object and purpose of the Covenant. This is in part because, as indicated above, it is an inappropriate task for States parties in relation to human rights treaties, and in part because it is a task that the Committee cannot avoid in the performance of its functions. In order to know the scope of its duty to examine a State's compliance under article 40 or a communication under the first Optional Protocol, the Committee has necessarily to take a view on the compatibility of a reservation with the object and purpose of the Covenant and with general international law. Because of the special character of a human rights treaty, the compatibility of a reservation with the object and purpose of the Covenant must be established objectively, by reference to legal principles, and the Committee is particularly well placed to perform this task. The normal consequence of an unacceptable reservation is not that the Covenant will not be in effect at all for a reserving party. Rather, such a reservation will generally be severable, in the sense that the Covenant will be operative for the reserving party without benefit of the reservation.

19. Reservations must be specific and transparent, so that the Committee, those living in the territory of the reserving State and other States parties may be clear as to what obligations of human rights compliance have or have not been undertaken. Reservations may thus not be general, but must refer to a particular provision of the Covenant and indicate in precise terms its scope in relation thereto. When considering the compatibility of possible reservations with the object and purpose of the Covenant, States should also take into consideration the overall effect of a group of reservations, as well as the effect of each reservation on the integrity of the Covenant, which remains an essential consideration. States should not enter so many reservations that they are in effect accepting a limited number of human rights obligations, and not the Covenant as such. So that reservations do not lead to a perpetual non-attainment of international human rights standards, reservations should not systematically reduce the obligations undertaken only to those presently existing in less demanding standards of domestic law. Nor should interpretative declarations or reservations seek to remove an autonomous meaning to Covenant obligations, by pronouncing them to be identical, or to be accepted only insofar as they are identical, with existing provisions of domestic law. States should not seek through reservations or interpretative declarations to determine that the meaning of a provision of the Covenant is the same as that given by an organ of any other international treaty body.

20. States should institute procedures to ensure that each and every proposed reservation is compatible with the object and purpose of the Covenant. It is desirable for a State entering a reservation to indicate in precise terms the domestic legislation or practices which it believes to be incompatible with the Covenant obligation reserved; and to explain the time period it requires to render its own laws and practices compatible with the Covenant, or why it is unable to render its own laws and practices compatible with the Covenant. States should also ensure that the necessity for maintaining reservations is periodically reviewed, taking into account any observations and recommendations

made by the Committee during examination of their reports. Reservations should be withdrawn at the earliest possible moment. Reports to the Committee should contain information on what action has been taken to review, reconsider or withdraw reservations.

Notes

[a] For the nature and purpose of the general comments, see Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 40 (A/36/40), annex VII, introduction. For a description of the history of the method of work, the elaboration of general comments and their use, see ibid., Thirty-ninth Session, Supplement No. 40 and corrigenda (A/39/40 and Corr.1 and 2), paras. 541-557. For the text of the general comments already adopted by the Committee, see ibid., Thirty-sixth Session, Supplement No. 40 (A/36/40), annex VII; ibid., Thirty-seventh Session, Supplement No. 40 (A/37/40), annex V; ibid., Thirty-eighth Session, Supplement No. 40 (A/38/40), annex VI; ibid., Thirty-ninth Session, Supplement No. 40 (A/39/40 and Corr.1 and 2), annex VI; ibid., Fortieth Session, Supplement No. 40 (A/40/40), annex VI; ibid., Forty-first Session, Supplement No. 40 (A/41/40), annex VI; ibid., Forty-third Session, Supplement No. 40 (A/43/40), annex VI; ibid., Forty-fourth Session, Supplement No. 40 (A/44/40), annex VI; ibid., Forty-fifth Session, Supplement No. 40 (A/45/40), annex VI; ibid., Forty-seventh Session, Supplement No. 40 (A/47/40), annex VI; ibid., Forty-eighth Session, Supplement No. 40 (A/48/40), vol. I, annex VI; and ibid., Fiftieth Session, Supplement No. 40 (A/50/40), vol. I, annex V. Also issued in documents HRI/GEN/1/Rev.1 and CCPR/C/21/Rev.1/Add.5.

[b] Adopted by the Committee at its 1382nd meeting (fifty-second session), on 2 November 1994.

[c] The number in parentheses indicates the session at which the general comment was adopted.

[d] Article 2 (1) (d), Vienna Convention on the Law of Treaties, 1969.

[e] Although the Vienna Convention on the Law of Treaties was concluded in 1969 and entered into force in 1980 - i.e., after the entry into force of the Covenant - its terms reflect the general international law on this matter as had already been affirmed by the International Court of Justice in The Reservations to the Genocide Convention Case of 1951.

[f] Reservations have been entered to both article 6 and article 7, but not in terms which reserve a right to torture or to engage in arbitrary deprivation of life.

[g] The competence of the Committee in respect of this extended obligation is provided for under article 5 - which itself is subject to a form of reservation in that the automatic granting of this competence may be reserved through the mechanism of a statement made to the contrary at the moment of ratification or accession.

ANNEX VI

Observations of States parties under article 40, paragraph 5, of the Covenant*

Observations on General Comment No. 24 (52), on issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant

A. United States of America[a]

There can be no serious question about the propriety of the Committee's concern about the possible effect of excessively broad reservations on the general protection and promotion of the rights reflected in the Covenant, nor any reasonable doubt regarding the general desirability of reservations that are specific, transparent and subject to review with an eye to withdrawal where appropriate. General Comment 24, however, appears to go much too far. The United States would therefore like to set forth in summary fashion a number of observations concerning the General Comment as follows.

1. Role of the Committee

The last sentence of paragraph 11 states that "a reservation that rejects the Committee's competence to interpret the requirements of any provisions of the Covenant would also be contrary to the object and purpose of that treaty".

This statement can be read to present the rather surprising assertion that it is contrary to the object and purpose of the Covenant not to accept the Committee's views on the interpretation of the Covenant. This would be a rather significant departure from the Covenant scheme, which does not impose on States Parties an obligation to give effect to the Committee's interpretations or confer on the Committee the power to render definitive or binding interpretations of the Covenant. The drafters of the Covenant could have given the Committee this role but deliberately chose not to do so.

In this respect, it is unnecessary for a State to reserve as to the Committee's power or interpretive competence since the Committee lacks the authority to render binding interpretations or judgements. The quoted sentence can, however, be read more naturally and narrowly in the context of the paragraph as a whole, to assert simply that a reservation may not be taken to the reporting requirement. This narrower view would be consistent with the clear intention of the Convention.

In this regard, the analysis in paragraphs 16-20, regarding which body has the legal authority to make determinations concerning the permissibility of specific reservations, is of considerable concern. Here the Committee appears to reject the established rules of interpretation of treaties as set forth in the Vienna Convention on the Law of Treaties and in customary international law. The General Comment states, for example, that the established provisions of the Vienna Convention are "inappropriate to address the problem of reservations to human rights treaties ... [as to which] [t]he principle of inter-State

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* The present annex is being published as received, without formal editing.

reciprocity has no place, save perhaps in the limited context of reservations to declarations on the Committee's competence under article 41".

Moreover, the Committee appears to dispense with the established procedures for determining the permissibility of reservations and to divest States Parties of any role in determining the meaning of the Covenant, which they drafted and joined, and of the extent of their treaty obligations. In its view, objections from other States Parties may not "specify a legal consequence" and States with genuine objections may not always voice them, so that "it is not safe to assume that a non-objecting State thinks that a particular reservation is acceptable". Consequently, because "the operation of the classic rules on reservations is so inadequate for the Covenant, ... [i]t necessarily falls to the Committee to determine whether a specific reservation is compatible with the object and purpose of the Covenant".

The Committee's position, while interesting, runs contrary to the Covenant scheme and international law.

2. Acceptability of reservations: governing legal principles

The question of the status of the Committee's views is of some significance in light of the apparent lines of analysis concerning the permissibility of reservations in paragraphs 8-9. Those paragraphs reflect the view that reservations offending peremptory norms of international law would not be compatible with the object and purpose of the Covenant, nor may reservations be taken to Covenant provisions which represent customary international law.

It is clear that a State cannot exempt itself from a peremptory norm of international law by making a reservation to the Covenant. It is not at all clear that a State cannot choose to exclude one means of enforcement of particular norms by reserving against inclusion of those norms in its Covenant obligations.

The proposition that any reservation which contravenes a norm of customary international law is per se incompatible with the object and purpose of this or any other convention, however, is a much more significant and sweeping premise. It is, moreover, wholly unsupported by and is in fact contrary to international law. As recognized in the paragraph 10 analysis of non-derogable rights, an "object and purpose" analysis by its nature requires consideration of the particular treaty, right and reservation in question.

With respect to the actual object and purpose of this Covenant, there appears to be a misunderstanding. The object and purpose was to protect human rights, with an understanding that there need not be immediate, universal implementation of all terms of the treaty. Paragraph 7 (which forms the basis for the analysis in para. 8 and subsequently) states that "each of the many articles, and indeed their interplay, secures the objectives of the Covenant". The implied corollary is, of course, that any reservation to any substantive provision necessarily contravenes the Covenant's object and purpose.

Such a position would, of course, wholly mistake the question of the object and purpose of the Covenant insofar as it bears on the permissibility of reservations. In fact, a primary object and purpose of the Covenant was to secure the widest possible adherence, with the clear understanding that a relatively liberal regime on the permissibility of reservations should therefore be required.

3. Specific reservations

The precise specification of what is contrary to customary international law, moreover, is a much more substantial question than indicated by the Comment. Even where a rule is generally established in customary international law, the exact contours and meaning of the customary law principle may need to be considered.

Paragraph 8, however, asserts in a wholly conclusory fashion that a number of propositions are customary international law which, to speak plainly, are not. It cannot be established on the basis of practice or other authority, for example, that the mere expression (albeit deplorable) of national, racial or religious hatred (unaccompanied by any overt action or preparation) is prohibited by customary international law. The Committee seems to be suggesting here that the reservations which a large number of States Parties have submitted to article 20 are per se invalid. Similarly, while many are opposed to the death penalty in general and the juvenile death penalty in particular, the practice of States demonstrates that there is currently no blanket prohibition in customary international law. Such a cavalier approach to international law by itself would raise serious concerns about the methodology of the Committee as well as its authority.

Another point worthy of clarification is whether the Committee really intends that, in the many areas which it mentions in paragraphs 8-11, any reservation whatsoever is impermissible, or only those which wholly vitiate the right in question. At the end of paragraph 8, for example, it is suggested that while reservations to particular clauses of article 14 may be acceptable, a general reservation could not be taken to the article as a whole. Presumably, the same must also be true for many of the other subjects mentioned. For example, even where there is a reservation to article 20, one would not expect such a reservation to apply to advocacy of racial hatred which constitutes incitement to murder or other crime.

4. Domestic implementation

The discussion in paragraph 12, as it stands, is very likely to give rise to misunderstandings in at least two respects. The Committee here states, with regard to implementing the Covenant in domestic law, that such laws "may need to be altered properly to reflect the requirements of the Covenant; and mechanisms at the domestic level will be needed to allow the Covenant rights to be enforceable at the local level". (Emphasis added.)

First, this statement may be cited as an assertion that States Parties must allow suits in domestic courts based directly on the provisions of the Covenant. Some countries do in fact have such a scheme of "self-executing" treaties. In other countries, however, existing domestic law already provides the substantive rights reflected in the Covenant as well as multiple possibilities for suit to enforce those rights. Where these existing rights and mechanisms are in fact adequate to the purposes of the Covenant, it seems most unlikely that the Committee intends to insist that the Covenant be directly actionable in court or that States must adopt legislation to implement the Covenant.

As a general matter, deciding on the most appropriate means of domestic implementation of treaty obligations is, as indicated in article 40, left to the internal law and processes of each State Party.

Rather, the Committee may properly be concerned about the case in which a State has joined the Covenant but lacks any means under its domestic law by which Covenant rights may be enforced. The State could even have similar constitutional guarantees which are simply ignored or non-enforceable. Such an approach would not, of course, be consistent with the fundamental principle of pacta sunt servanda.

Second, paragraph 12 states that "[r]eservations often reveal a tendency of States not to want to change a particular law". Some may view this statement as sweepingly critical of any reservation whatsoever which is made to conform to existing law. Of course, since this is the motive for a large majority of the reservations made by States in all cases, it is difficult to say that this is inappropriate in principle. Indeed, one might say that the more seriously a State Party takes into account the necessity of providing strictly for domestic implementation of its international obligations, the more likely it is that some reservations may be taken along these lines.

It appears that the Comment is not intended to make such a criticism, but rather is aimed at the particular category of "widely formulated reservations" which preserve complete freedom of action and render uncertain a State Party's obligations as a whole, e.g., that the Covenant is generally subordinated to the full unspecified range of national law. This, of course, would be neither appropriate nor lawful. The same is not true, however, when by means of a discrete reservation, a State Party declines for sufficient reasons to accept a particular provision of the Covenant in preference for existing domestic law.

5. Effect of invalidity of reservations

It seems unlikely that one can misunderstand the concluding point of this general comment, in paragraph 18, that reservations which the Committee deems invalid "will generally be severable, in the sense that the Covenant will be operative for the reserving party without benefit of the reservation". Since this conclusion is so completely at odds with established legal practice and principles and even the express and clear terms of adherence by many States, it would be welcome if some helpful clarification could be made.

The reservations contained in the United States instrument of ratification are integral parts of its consent to be bound by the Covenant and are not severable. If it were to be determined that any one or more of them were ineffective, the ratification as a whole could thereby be nullified.

Articles 20 and 21 of the Vienna Convention set forth the consequences of reservations and objections to them. Only two possibilities are provided. Either (i) the remainder of the treaty comes into force between the parties in question or (ii) the treaty does not come into force at all between these parties. In accordance with article 20, paragraph 4 (c), the choice of these results is left to the objecting party. The Convention does not even contemplate the possibility that the full treaty might come into force for the reserving State.

The general view of the academic literature is that reservations are an essential part of a State's consent to be bound. They cannot simply be erased. This reflects the fundamental principle of the law of treaties: obligation is based on consent. A State which does not consent to a treaty is not bound by that treaty. A State which expressly withholds its consent from a provision

cannot be presumed, on the basis of some legal fiction, to be bound by it. It is regrettable that General Comment 24 appears to suggest to the contrary.

B. United Kingdom of Great Britain and Northern Ireland[b]

1. The United Kingdom is of course aware that the general comments adopted by the Committee are not legally binding. They nevertheless command great respect, given the eminence of the Committee and the status of the International Covenant on Civil and Political Rights. The issue dealt with in general comment No. 24 (52) (reservations to the Covenant) is one of great importance, both in respect of the development of the Covenant and the Committee's role under it and in its wider ramifications. The United Kingdom is therefore grateful for the opportunity provided under article 40 (5) of the Covenant to submit to the Committee certain observations on the general comment.

2. These will be divided into four parts: the legal regime regulating reservations to the Covenant; the criteria for assessing compatibility with the object and purpose of the Covenant; the power to determine compatibility with the object and purpose; the legal effect of an incompatible reservation.

The legal regime regulating reservations to the Covenant

3. The United Kingdom shares the Committee's concern that the integrity of the Covenant's treaty regime should not be determined by too extensive a practice of reservations formulated by States on becoming Party to them. The United Kingdom agrees also that individual reservations may on occasion be so widely drawn as to cast doubt on whether their maintenance is compatible with being Party to the Covenant. Regrettable though it may be, such a situation is not materially different from that obtaining in other areas of international relations, and would not provide a justification for a different legal regime to regulate reservations to human rights treaties. To create such a special regime by amendment of the Covenant would be a major task. To do so as part of the development of general international law would, all other considerations aside, be undesirable if the effect was to fragment this aspect of the law of treaties which is currently under study by the International Law Commission.

4. The modern law of reservations to multilateral treaties moreover owes its origin to the Advisory Opinion of the International Court of Justice of 28 May 1951 on Reservations to the Genocide Convention. The Genocide Convention is itself (in the Committee's phrase) a human rights treaty concluded for the benefit of persons within the jurisdiction of the States Parties to it. As the International Court observed, the Genocide Convention is of a type in which "the contracting States do not have any interests of their own; they merely have, one and all, a common interest, namely the accomplishment of those high purposes which are the raison d'être of the Convention". It was in the light precisely of those characteristics of the Genocide Convention, and in the light of the desirability of widespread adherence to it, that the Court set out its approach towards reservations. The United Kingdom does not accordingly believe that rules different from those foreshadowed by the International Court and in due course embodied in the Vienna Convention on the Law of Treaties are required to enable the international community to cope with reservations to human rights treaties. The correct approach is rather to apply the general rules relating to reservations laid down in the Vienna Convention in a manner which takes full account of the particular characteristics of the treaty in question.

5. The argument that the existing rules of international law are inadequate to cope with human rights treaties rests in any case, as the United Kingdom sees it, on a mistaken assumption. The Committee says in paragraph 17 that the Vienna Convention's provisions on the role of State objections in relation to reservations are inappropriate to address the problem of reservations to human rights treaties. This is because such treaties "are not a web of inter-State exchanges of mutual obligations" and because "[t]he principle of reciprocity has no place". The United Kingdom does not find this to be an adequate account, for various reasons. In the first place, it is not the basis on which the International Court of Justice approached the Genocide Convention (para. 3 above). In the second place, it is not the view taken by other authoritative bodies, such as the European Court of Human Rights, which held in 1978[5] that at the European Convention on Human Rights "comprises more than mere reciprocal engagements between Contracting States. It creates over and above a network of mutual bilateral understandings, objective obligations which in the words of the preamble benefit from a 'collective enforcement'" (emphasis added).[6] In the third place, both the faculty under article 41 of the Covenant for bringing inter-State complaints and the widespread practice of States in invoking the Covenant as against other States Parties in respect of the treatment of individuals show that in a very real and practical sense even the substantive provisions of the Covenant are indeed regarded as creating "a network of mutual bilateral undertakings". Finally, it must be assumed that, in respect of reservations which are clearly compatible with the object and purpose of the Covenant, the Committee accepts that States Parties exercise the rights and functions assigned to them by the Vienna Convention. If so, it is not easy to discover a logical ground for ruling out these rights and functions for other reservations, including those where there is at least a reasonable measure of doubt as to whether the reservation is or is not compatible with the object and purpose of the Covenant. Given therefore that the bilateral rights and general interests of other Parties are, as indicated, directly affected, the United Kingdom regards it as a self-evident proposition that the reaction of those Parties to a reservation formulated by one of them is of direct significance both in law and in practice. In short, the legal effect of any particular reservation to a human rights treaty is an amalgam of the terms of the treaty and the terms and import of the reservation, in the light of the reactions to it by the other treaty Parties and in the light of course of any authoritative third-party procedure that may be applicable.

The criteria for assessing compatibility with the object and purpose of the Covenant

6. The United Kingdom shares the Committee's view that an automatic identification between non-derogability and compatibility with the object and purpose is too simplistic. Derogation from a formally contracted obligation and reluctance to undertake the obligation in the first place are not the same thing. The United Kingdom is likewise of one mind with the Committee that multifaceted treaties like the Covenants pose considerable problems over the ascertainment of their object and purpose. The problem is one common to all lengthy treaties containing numerous provisions of coordinate status with one another.

7. The United Kingdom is however less convinced by the argument that, because human rights treaties are for the benefit of individuals, provisions in the Covenant that represent customary international law may not be the subject of reservations. It is doubtful whether such a proposition represents existing customary international law; it is not a view shared by most commentators, and States have not expressly objected to reservations on this ground. In the

United Kingdom's view, there is a clear distinction between choosing not to enter into treaty obligations and trying to opt out of customary international law. Such a distinction is inherent in the Committee's recognition that reservations to articles that guarantee customary international law rights are permitted provided that the right is not deprived of its basic purpose.

8. For broadly similar reasons, the United Kingdom does not wholly share the Committee's concern over reservations which exclude the acceptance of obligations which would require changes in national law to ensure compliance with them. The Committee's comments that "no real international rights or obligations have thus been accepted" and that "all the essential elements of the Covenant guarantees have been removed" miss the fact that States Parties, even while entering such reservations, do at least accept the Committee's supervision, through the reporting system, of those Covenant rights guaranteed by their national law.

The power to determine compatibility with the object and purpose

9. The United Kingdom shares the Committee's view as to the seriousness of the issue of compatibility of reservations with the object and purpose of the treaty in question. It does not however believe that this is the central issue in the law and practice of reservations to multilateral conventions. The vast majority of reservations are in practice dealt with satisfactorily through the operation of the normal rules in the Vienna Convention, it being borne in mind that another Contracting State always has the right formally to object even to a reservation which is undoubtedly admissible (except in the special case of a reservation expressly permitted by the treaty). The question of compatibility with the object and purpose is confined to a small number of extreme cases.

10. It is clear however that a legal regime of reservations that depends to any extent on the general criterion of compatibility with the object and purpose of a treaty as a whole will be uncertain in its operation in the absence of an objective method for determining whether the criterion is satisfied. The availability of binding third-party procedures could be of great importance in this respect, as the International Law Commission itself recognized at the outset. This state of affairs inevitably raises a serious question as to the proper role which the Committee itself may play, to which the Committee has given serious consideration at pages 6 and 7 of the general comment.

11. The United Kingdom shares the analysis that the Committee must necessarily be able to take a view of the status and effect of a reservation where this is required in order to permit the Committee to carry out its substantive functions under the Covenant. Thus, the Committee might find itself unable in particular cases to deliver a report under the special powers conferred upon it by article 41 or the First Optional Protocol, except on the basis of a view as to the impact of a given reservation. Similarly, the Committee might, according to the circumstances, find it appropriate to form or express its view on a reservation for the purpose of questioning a State Party in its reports under article 40 or for the purpose of reporting its own conclusions. Paragraph 20 of the general comment, however, uses the verb "determine" in connection with the Committee's functions towards the status of reservations, and does so moreover in the context if its dictum that the task in question is inappropriate for the States Parties. This would appear to have implications which call for comment.

12. Without wishing to take a final view on the matter, the United Kingdom would make the following points:

(a) Even if it were the case (as the general comment argues but the United Kingdom doubts: see paras. 3-5 above) that the law on reservations is inappropriate to address the problem of reservations to human rights treaties, this would not of itself give rise to a competence or power in the Committee except to the extent provided for in the Covenant; any new competence could only be created by amendment to the Covenant, and would then be exercisable on such terms as were laid down;

(b) No conclusion as to the status or consequences of a particular reservation could be properly determinative unless it were binding not only on the reserving State Party but on all the Parties to the Covenant, which would in turn automatically presuppose that the Parties had undertaken in proper form a prior legal obligation to accept it;

(c) There is a qualitative distinction between decisions judicially arrived at after full legal argument and determinations made without the benefit of a judicial process.

The legal effect of an incompatible reservation

13. The Committee correctly identifies articles 20 and 21 of the Vienna Convention on the Law of Treaties as containing the rules which, taken together, regulate the legal effect of reservations to multilateral treaties. The United Kingdom wonders however whether the Committee is right to assume their applicability to incompatible reservations. The rules cited clearly do apply to reservations which are fully compatible with the object and purpose but remain open for acceptance or objection (see para. 9 above). It is questionable however whether they were intended also to cover reservations which are inadmissible in limine. For example, it seems highly improbably that a reservation expressly prohibited by the treaty (the case in art. 19 (a) of the Vienna Convention) is open to acceptance by another Contracting State. And if so, there is no clear reason why the same should not apply to the other cases enumerated in article 19, including incompatibility with the object and purpose under 19 (c). The Genocide Convention Advisory Opinion did indeed deal directly with the matter, by stating that acceptance of a reservation as being compatible with the object and purpose entitles a party to consider the reserving State to be party to the treaty. In the converse case (i.e. the case where the reservation is not compatible with the object and purpose) the Court states plainly, "that State cannot be regarded as being a party to the Convention". This is the approach which the United Kingdom has consistently followed in its own treaty practice.

14. The general comment suggests, per contra, that an "unacceptable" reservation will generally be severable, in the sense that the Covenant will be operative for the reserving party as if the reservation had not been entered. The United Kingdom agrees that severability of a kind may well offer a solution in appropriate cases, although its contours are only beginning to be explored in State practice. However the United Kingdom is absolutely clear that severability would entail excising both the reservation and the parts of the treaty to which it applies. Any other solution they would find deeply contrary to principle, notably the fundamental rule reflected in Article 38 (1) of the Statute of the International Court of Justice, that international conventions establish rules "expressly recognized by" the Contracting States. The United Kingdom regards it as hardly feasible to try to hold a State to obligations under the Covenant which it self-evidently has not "expressly recognized" but rather has indicated its express unwillingness to accept. The United Kingdom fears that, questions of principle aside, an approach as outlined in

paragraph 20 of the general comment would risk discouraging States from ratifying human rights conventions[f] (since they would not be in a position to reassure their national Parliaments as to the status of treaty provisions on which it was felt necessary to reserve) or might even lead to denunciations by existing Parties who ratified against a set of assumptions different from those now enunciated in the general comment.

15. The United Kingdom believes that the only sound approach is accordingly that adopted by the International Court of Justice: a State which purports to ratify a human rights treaty subject to a reservation which is fundamentally incompatible with participation in the treaty regime cannot be regarded as having become a party at all - unless it withdraws the reservation. The test of incompatibility is and should be an objective one, in which the views of competent third parties would carry weight. Ultimately however it is a matter for the treaty parties themselves and, while the presence or absence of individual State "objections" should not be decisive in relation to an objective standard, it would be surprising to find a reservation validly stigmatized as incompatible with the object and purpose of the Covenant if none of the Parties had taken exception to it on that ground. For all other reservations the rules laid down in the Vienna Convention do and should apply - except to the extent that the treaty regulates such matters by its own terms.

16. The United Kingdom wishes finally to express its gratitude to the Committee for having focused attention on what is undoubtedly a real and serious problem and for having illuminated the underlying issues. Inasmuch as these issues go wider than the Covenant itself, or than human rights treaties in general, the United Kingdom proposes to reflect further on how international consideration of these matters can best be carried forward.

Notes

[a] Observations transmitted by letter dated 28 March 1995.

[b] Observations transmitted by letter dated 21 July 1995.

[c] Ireland v. United Kingdom.

[d] Series A, No. 25, p. 90, para. 239.

[e] ICJ Report 1951, at p. 29.

[f] A similar point applies for example to the First Optional Protocol, to which the United Kingdom is not, however, a party.

ANNEX VII

Revised guidelines regarding the form and contents of reports from States parties

A. Guidelines regarding the form and contents of reports from States parties under article 40 (1) (a) of the Covenant*

1. Under article 40 of the International Covenant on Civil and Political Rights each State party has undertaken to submit, within one year of the entry into force of the Covenant in regard to it and thereafter whenever the Human Rights Committee established under the Covenant so requests, reports on the measures which it has adopted to give effect to rights recognized in the Covenant and on the progress made in the enjoyment of those rights. Article 40 also provides that the reports shall indicate the factors and difficulties, if any, affecting the implementation of the Covenant.

2. In order to assist it in fulfilling the tasks entrusted to it pursuant to article 40 of the Covenant, the Committee has decided that it would be useful to inform States parties of its wishes regarding the form and contents of reports. Compliance with the following guidelines will help to ensure that reports are presented in a uniform manner and enable the Committee and States parties to obtain a complete picture of the situation in each State as regards the implementation of the rights referred to in the Covenant. This will also reduce the need for the Committee to request additional information under its rules of procedure.

3. The general part of the report should be prepared in accordance with the consolidated guidelines for the initial part of the reports of States parties to be submitted under the various international human rights instruments, including the Covenant, as contained in document HRI/1991/1.

4. The part of the report relating specifically to parts I, II and III of the Covenant should describe in relation to the provisions of each article:

(a) The legislative, administrative or other measures in force in regard to each right;

(b) Any restrictions or limitations, even of a temporary nature, imposed by law or practice or any other manner on the enjoyment of the right;

(c) Any other factors or difficulties affecting the enjoyment of the right by persons within the jurisdiction of the State, including any factors affecting the equal enjoyment by women of that right;

(d) Any other information on the progress made in the enjoyment of the right.

5. When a State party to the Covenant is also a party to the Optional Protocol, and if in the period under review the Committee has issued views finding that the State party has violated provisions of the Covenant, the report should include a section explaining what action has been taken relating to the communication concerned. In particular, the State party should indicate what remedy it has afforded the author of the communication whose rights the Committee found to have been violated.

6. The report should be accompanied by copies of the principal legislative and other texts referred to in the report. These will be made available to members of the Committee. It should be noted, however, that, for reasons of expense, they will not normally be reproduced for general distribution with the report except to the extent that the reporting State specifically so requests. It is desirable, therefore, that when a text is not actually quoted in or annexed to the report itself, the report should contain sufficient information to be understood without reference to it.

7. The Committee will welcome at any time information on any significant new development in regard to the rights referred to in the Covenant, but in any event it intends, after the completion of its study of each State's initial report and of any additional information submitted, to call for subsequent reports under article 40 (1) (b) of the Covenant. The aim of such further reports will be to bring the situation up to date in respect of each State.

8. On the basis of reports prepared according to the above guidelines, the Committee is confident that it will be able to develop a constructive dialogue with each State party in regard to the implementation of the Covenant and thereby contribute to mutual understanding and peaceful and friendly relations among nations in accordance with the Charter of the United Nations.

B. General guidelines regarding the form and contents of periodic reports from States parties[b]

1. Under article 40 (1) of the Covenant, every State party has undertaken to submit reports to the Human Rights Committee on the implementation of the Covenant:

(a) Within one year of the entry into force of the Covenant for the State party concerned;

(b) Thereafter whenever the Committee so requests.

2. At its second session, in August 1977, the Committee adopted guidelines for the submission of reports by States parties under article 40.[c] In drawing up these guidelines the Committee had in mind in particular the initial reports to be submitted by States parties under article 40 (1) (a). These guidelines have been followed by the great majority of States parties that have submitted reports subsequent to their issuance and they have proved helpful both to the reporting States and to the Committee.

3. In paragraph 5 of those guidelines, the Committee indicated that it intended, after the completion of its study of each State's initial report and of any subsequent information submitted, to call for subsequent reports under article 40 (1) (b) of the Covenant.

4. At its eleventh session, in October 1980, the Committee adopted by consensus a statement concerning the subsequent stages of its future work under article 40. It confirmed its aim of engaging in a constructive dialogue with each reporting State and determined that the dialogue should be conducted on the basis of periodic reports from States parties to the Covenant (para. (d)). It also decided that, in the light of its experience in the consideration of initial reports, it should develop guidelines for the purpose of subsequent reports. Pursuant to this decision and to the decision taken by the Committee at its thirteenth session to request States parties to submit reports under

article 40 (1) (b) on a periodic basis, the Committee has drawn up the following guidelines regarding the form and contents of such reports, which are designed to complete and to bring up to date the information required by the Committee under the Covenant.

5. General information should be prepared in accordance with the consolidated guidelines for the initial part of reports of States parties to be submitted under the various international human rights instruments, including the Covenant, as contained in document HRI/1991/1.

6. Information relating to each of the articles in parts I, II and III of the Covenant should concentrate especially on:

(a) The completion of the information before the Committee as to the measures adopted to give effect to rights recognized in the Covenant, taking account of questions raised in the Committee on the examination of any previous report and including in particular additional information as to questions not previously answered or not fully answered;

(b) Information taking into account general comments which the Committee may have made under article 40 (4) of the Covenant;

(c) Changes made or proposed to be made in the national laws and practices relevant to the Covenant;

(d) Action taken as a result of experience gained in cooperation with the Committee;

(e) Factors affecting and difficulties experienced in the implementation of the Covenant, including any factors affecting the equal enjoyment by women of rights referred to in the Covenant;

(f) The progress made since the last report in the enjoyment of rights recognized in the Covenant.

7. When a State party to the Covenant is also a party to the Optional Protocol and if, in the period under review, the Committee has issued views finding that the State party has violated provisions of the Covenant, the report should include a section explaining what action has been taken relating to the communication concerned. In particular, the State party should indicate what remedy it has afforded the author of the communication whose rights the Committee found to have been violated.

8. It should be noted that the reporting obligation extends not only to the relevant laws and other norms, but also to the practices of the courts and administrative organs of the State party and other relevant facts likely to show the degree of actual enjoyment of rights recognized by the Covenant.

9. The report should be accompanied by copies of the principal legislative and other texts referred to in it.

10. It is the desire of the Committee to assist States parties in promoting the enjoyment of rights under the Covenant. To this end, the Committee wishes to continue the dialogue which it has begun with reporting States in the most constructive manner possible and reiterates its confidence that it will thereby contribute to mutual understanding and peaceful and friendly relations among nations in accordance with the Charter of the United Nations.

Notes

[a] Adopted by the Committee at its 44th meeting (second session), on 29 August 1977, and embodying amendments adopted by the Committee at its 1002nd meeting (thirty-ninth session), on 24 July 1990, its 1089th meeting (forty-second session), on 25 July 1991, and its 1415th meeting (fifty-third session), on 7 April 1995.

[b] Adopted by the Committee at its 308th meeting (thirteenth session), on 27 July 1981, and embodying amendments adopted by the Committee at its 1002nd meeting (thirty-ninth session), on 24 July 1990, its 1089th meeting (forty-second session), on 25 July 1991, and its 1415th meeting (fifty-third session), on 7 April 1995.

[c] See Official Records of the General Assembly, Thirty-second Session, Supplement No. 44 (A/32/44), annex IV.

ANNEX VIII

Letter dated 13 July 1995 from the Chairman of the Committee to the Permanent Representative of the Federal Republic of Yugoslavia to the United Nations Office at Geneva

We wish to refer to your letter dated 26 January 1995, in which you conveyed your Government's position concerning the submission of the fourth periodic report under article 40 of the International Covenant on Civil and Political Rights.

We would like to inform you that the Human Rights Committee at its fifty-third session, held at United Nations Headquarters from 20 March to 7 April 1995, deeply regretted the decision of the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) not to comply with its reporting obligations. The Committee observed that the submission of reports under the Covenant constitutes a solemn legal obligation assumed by each State party and is indispensable for carrying out the Committee's basic function of establishing a positive dialogue with States parties in the field of human rights. Therefore, non-submission of reports greatly hinders the process of dialogue and seriously undermines the objectives of the Covenant by hampering the Committee's ability to monitor the implementation of the Covenant.

The Committee has taken note of the reasons presented by your Government as forming the basis of its position. In that regard, we would like to recall that, in a decision of 7 October 1992 requesting your Government to submit a report on specific issues in respect of persons and events under its jurisdiction, the Committee emphasized that all the people within the territory of the former Yugoslavia are entitled to the guarantees of the Covenant and that the Federal Republic of Yugoslavia (Serbia and Montenegro) is bound by the obligations under the Covenant. In its comments adopted at the end of the consideration of that report (CCPR/C/79/Add.16), the Committee stated that it regarded the submission of the report by the Government and the presence of a delegation as confirmation that the Federal Republic of Yugoslavia (Serbia and Montenegro) had succeeded, in respect of the territory of Serbia and Montenegro, to the obligations undertaken under the Covenant by the former Socialist Federal Republic of Yugoslavia.

While it is not for the Committee to take a position on last September's action of the Meeting of States parties with regard to the Federal Republic of Yugoslavia (Serbia and Montenegro), the Committee will continue to proceed on the basis of the above-mentioned understanding and expresses the hope that the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) will reconsider its decision and submit its report to the Committee as soon as possible.

(Signed) Francisco José AGUILAR URBINA
Chairman
Human Rights Committee

ANNEX IX

List of States parties' delegations that participated in consideration of their respective reports by the Human Rights Committee at its fifty-second, fifty-third and fifty-fourth sessions

(Listed in the order in which their reports were considered)

Nepal	Representative	Mr. Banmali Prasad Lacoul, Minister Counsellor, Chargé d'affaires a.i., Permanent Mission of the Kingdom of Nepal to the United Nations Office at Geneva
	Adviser	Mr. Ram Badu Dhakal, Third Secretary, Permanent Mission of the Kingdom of Nepal to the United Nations Office at Geneva
Tunisia	Representative	Mr. Mohamed Ennaceur, Ambassador, Permanent Representative of Tunisia to the United Nations Office at Geneva
	Alternate representative	Mr. Abdessalem Hetira, Representative in the Ministry of Foreign Affairs, Director of the Human Rights Unit, Ministry of Foreign Affairs
	Advisers	Mr. Hatem Kotrane, Professor, in charge of the Human Rights Unit, Ministry of Social Affairs
		Mr. Habib Cherif, Representative in the Ministry of Justice
		Mr. Youssef Neji, Chief of the Human Rights Service, Ministry of the Interior
		Mr. Moncef Baati, Counsellor, Permanent Mission of Tunisia to the United Nations Office at Geneva
		Mr. Samir Koubaa, Counsellor, Permanent Mission of Tunisia to the United Nations Office at Geneva
		Mr. Raouf Chatti, Counsellor, Permanent Mission of Tunisia to the United Nations Office at Geneva
		Mrs. Rafla Mrabet, Secretary, Permanent Mission of Tunisia to the United Nations Office at Geneva

Morocco	Representative	Mr. Mohamed Majdi, Chargé d'affaires a.i., Permanent Mission of the Kingdom of Morocco to the United Nations Office at Geneva
	Alternate representative	Mr. Mohamed Lididi, Advisor to the Supreme Court, Director of the Prison and Rehabilitation Service
	Advisers	Miss Saadia Belmir, Advisor to the Supreme Court on secondment to the General Secretariat of the Ministry of Justice
		Mr. Moulay Lahcen Aboutahir, First Secretary, Permanent Mission of the Kingdom of Morocco to the United Nations Office at Geneva
Libyan Arab Jamahiriya	Representative	Mr. Said Hafyana, Chairman of the General People's Committee of Justice and General Security
	Alternate representative	Mr. Mohamed Abdelfattah El Zahrah, Chairman of the Supreme Court, General People's Committee of Justice and General Security
	Advisers	Mr. Bachir Alhadi Al Jnuli, Member of the General People's Committee of Justice and General Security
		Ms. Najat El Hajjaji, Counsellor, Permanent Mission of the Libyan Arab Jamahiriya to the United Nations Office at Geneva
Argentina	Representative	Mr. Rodolpho Carlos Barra, Minister of Justice
	Alternate representative	Ms. Zelmira Regazzoli, Director General of Human Rights, Ministry of Foreign Affairs, International Trade and Worship
	Advisers	Mrs. Maria Eva Gatica, General Coordinator, Social Welfare Services, Secretary General, Office of the President
		Mr. Francisco Javier Fernandez, Private Secretary, Ministry of Justice
New Zealand	Representative	Mr. Colin R. Keating, Ambassador, Permanent Representative of New Zealand to the United Nations in New York

	Alternate representative	Ms. Gabrielle Rush, Policy Officer, Ministry of Foreign Affairs and Trade
	Adviser	Mr. Patrick Rata, Second Secretary, Permanent Mission of New Zealand to the United Nations in New York
Paraguay	Representative	Mr. Juan Rafael Caballero Gonzalez, Deputy Minister of Justice, Ministry of Justice and Labour
	Alternate representative	Mr. José Félix Fernández Estigarribia, Ambassador, Permanent Representative of Paraguay to the United Nations
	Advisers	Mr. Eric Maria Salum Flecha, Director General of Human Rights, Ministry of Justice and Labour
		Mrs. Ana María Baiardi Quesnel, First Secretary, Permanent Mission of Paraguay to the United Nations
Haiti	Representative	Mrs. Nicole Denerville, Secretary of State for Justice
	Adviser	Mr. Napoléon Aubourg, Advisor to the Minister of Justice
United States of America	Representative	Mr. John Shattuck, Assistant Secretary for Democracy, Human Rights and Labor, Department of State
	Alternate representatives	Ms. Ada E. Deer, Assistant Secretary for Indian Affairs, Department of the Interior
		Mr. Conrad K. Harper, Legal Adviser, Department of State
		Ms. Jo Ann Harris, Assistant Attorney-General, Criminal Division, Department of Justice
		Mr. Deval L. Patrick, Assistant Attorney-General, Civil Rights Division, Department of Justice
	Advisers	Mr. T. Alexander Aleinikoff, General Counsel, Immigration and Naturalization Service, Department of Justice
		Ms. Jamison S. Borek, Deputy Legal Adviser, Department of State

Mr. Kevin Digregory, Deputy Assistant Attorney-General, Criminal Division, Department of Justice

Ms Juanita C. Hernandez, Counsel to the Assistant Attorney-General, Civil Rights Division, Department of Justice

Ms. Elizabeth Homer, Director, Office of American Indian Trust, Department of the Interior

Mr. David P. Stewart, Assistant Legal Adviser, Department of State

Ms. Beverly Zweiben, Office of Economic and Social Affairs, Bureau of International Organization Affairs, Department of State

Ms. Sandra J. Ashton, Attorney Adviser, Office of the Solicitor, Department of the Interior

Mr. Bradford M. Berry, Counsel to the Deputy Attorney-General, Department of Justice

Mr. Owen B. Cooper, Associate General Counsel, Immigration and Naturalization Service, Department of Justice

Ms. Catherine Kay, Program Officer, Bureau of Democracy, Human Rights and Labor, Department of State

Mr. Craig Kuehl, United States Mission to the United Nations

Mr. Yehudah Mirsky, Office of External Relations, Bureau of Democracy, Human Rights and Labor, Department of State

Ms. Cynthia Stewart, Office of the Legal Adviser, Department of State

Ms. Tracy Toulou, Special Assistant to the Assistant Attorney-General, Criminal Division, Department of Justice

Ms. Nancy Wade, United States Mission to the United Nations

Ms. Lisa Winston, Special Assistant to the Assistant Attorney-General, Civil Rights Division, Department of Justice

Yemen (52nd session)	Representative	Mr. Yahya Geghman, Ambassador, Permanent Representative of the Republic of Yemen to the United Nations Office at Geneva
	Adviser	Mr. Abdul Rahman Al-Musibli, Counsellor, Permanent Mission of the Republic of Yemen to the United Nations Office at Geneva
Yemen (53rd session)	Representative	Mr. Hussein Al-Hubaishi, Adviser to the Government of Yemen
	Advisers	Mr. Abdallah Saleh Al-Ashtal, Permanent Representative of Yemen to the United Nations
		Ms. Noria Abdullah Ali Al-Hamami, First Secretary, Permanent Mission of Yemen to the United Nations
Ukraine	Representative	Mr. Vitali Krukov, Chief Consultant, Administration of the President of Ukraine, Head of the Delegation
	Advisers	Mr. Oleg Shamshur, Counsellor, Permanent Mission of Ukraine
		Mr. Yevhen Semashko, Second Secretary, Permanent Mission of Ukraine
Latvia	Representative	Ms. Inese Birzniece, Head of Delegation, Chairperson of the Parliamentary Commission for Human Rights
	Advisers	Ms. Sandra Kalniete, Permanent Representative of Latvia to the United Nations Office at Geneva
		Mr. Eglils Levits, Ambassador of Latvia to the Swiss Confederation, Former Minister of Justice
		Ms. Dace Dobraja, Chief of the International Law Division, Ministry of Foreign Affairs
		Ms. Vija Jakobsone, Attorney at Law
Russian Federation	Representative	Mr. Valentin Kovalev, Head of Delegation, Minister of Justice, Chairman of the Provisional Supervisory Commission on the Observance of Constitutional Rights and Freedoms of Citizens

Advisers

Mr. Andrei Kolossovsky, Ambassador, Permanent Representative of the Russian Federation to the United Nations Office at Geneva

Ms. Ludmila Zavadskaya, Chairperson, Subcommittee on Federal Legislation and Human Rights of Russia's State Duma Committee on Legislation, Legal and Judicial Reform

Mr. Valery Chernikov, Chief, Legal Department, Ministry of the Interior

Mr. Roman Chermenteev, Consultant, State and Law Department to the President of Russia

Mr. Victor Makazan, Chief of Executive Board, Provisional Supervisory Commission on the Observance of Constitutional Rights and Freedoms of Citizens

Mrs. Lelia Alehicheva, Chief of Legal Expertise Branch, Central Commission on Elections

Mr. Andrei Maksimov, Assistant to the Minister of Justice

Mr. Mikhail Otdelnov, Assistant to the Minister of Justice

Mr. Mikhail Lebedev, Deputy Head, Department of International Humanitarian Cooperation and Human Rights, Ministry of Foreign Affairs

Mr. Aleksey Rogov, Chief, Human Rights Unit, Ministry of Foreign Affairs

Mr. Oleg Malginov, Senior Counsellor, Permanent Mission of the Russian Federation to the United Nations Office at Geneva

Mr. Andrey Kovalev, Senior Counsellor, Permanent Mission of the Russian Federation to the United Nations Office at Geneva

Mr. Youri Boitchenko, Second Secretary, Permanent Mission of the Russian Federation to the United Nations Office at Geneva

		Mr. Nikolay Okinin, Second Secretary, Permanent Mission of the Russian Federation to the United Nations Office at Geneva
		Mr. Vladimir Dolgoborodov, Third Secretary, Permanent Mission of the Russian Federation to the United Nations Office at Geneva
United Kingdom of Great Britain and Northern Ireland	Representative	Mr. J. F. Halliday, Deputy Secretary, Criminal Department, Home Office
	Alternates	Mrs. S. A. Evans, Principal Assistant, Legal Adviser, Home Office
		Mr. S. Bramley, Assistant Secretary on secondment from the Home Office
	Advisers	Ms. F. Spencer, Principal, Home Office
		Sir Franklin Berman, The Legal Adviser, Foreign and Commonwealth Office
		Mr. I. Barnard, First Secretary, Permanent Mission of the United Kingdom to the United Nations Office at Geneva
		Ms. E. Doherty, Third Secretary, Permanent Mission of the United Kingdom to the United Nations Office at Geneva
Sri Lanka	Representative	Mr. Bernard A. B. Goonetilleke, Permanent Representative to the United Nations (Leader of the delegation)
	Advisers	Mr. Rohan Perera, Legal Advisor, Ministry of Foreign Affairs
		Ms. A. Wijewardena, Deputy Director, Ministry of Foreign Affairs
		Mr. A. L. Abdul Azeez, Third Secretary, Permanent Mission of Sri Lanka to the United Nations Office at Geneva

ANNEX X

Observations of the Human Rights Committee under article 5, paragraph 4, of the Optional Protocol relating to the International Covenant on Civil and Political Rights*

* To be issued subsequently in Official Records of the General Assembly, Fiftieth Session, Supplement No. 40 (A/50/40), vol. II.

ANNEX XI

Decisions of the Human Rights Committee declaring communications inadmissible under the Optional Protocol relating to the International Covenant on Civil and Political Rights*

* To be issued subsequently in Official Records of the General Assembly, Fiftieth Session, Supplement No. 40 (A/50/40), vol. II.

ANNEX XII

List of documents issued during the reporting period

Reports of States parties

CCPR/C/28/Add.17	Second periodic report of the Libyan Arab Jamahiriya - additional information
CCPR/C/70/Add.6	Third periodic report of Sri Lanka
CCPR/C/74/Add.2	Initial report of Nepal
CCPR/C/81/Add.1/Rev.1	Initial report of Latvia
CCPR/C/81/Add.4	Initial report of the United States of America
CCPR/C/81/Add.5	Initial report of Estonia
CCPR/C/81/Add.6	Initial report of Brazil
CCPR/C/81/Add.7	Initial report of Guatemala
CCPR/C/84/Add.2	Fourth periodic report of the Russian Federation
CCPR/C/84/Add.3	Initial report of Paraguay
CCPR/C/95/Add.1	Fourth periodic report of Spain
CCPR/C/95/Add.2	Fourth periodic report of Ukraine
CCPR/C/95/Add.3	Fourth periodic report of the United Kingdom
CCPR/C/95/Add.4	Fourth periodic report of Sweden
CCPR/C/105	Initial report of Haiti

Comments of the Human Rights Committee on States parties' reports

CCPR/C/79/Add.42	Comments of the Human Rights Committee on States parties' reports - Nepal
CCPR/C/79/Add.43	Comments of the Human Rights Committee on States parties' reports - Tunisia
CCPR/C/79/Add.44	Comments of the Human Rights Committee on States parties' reports - Morocco
CCPR/C/79/Add.45	Comments of the Human Rights Committee on States parties' reports - Libyan Arab Jamahiriya
CCPR/C/79/Add.46	Comments of the Human Rights Committee on States parties' reports - Argentina
CCPR/C/79/Add.47	Comments of the Human Rights Committee on States parties' reports - New Zealand

CCPR/C/79/Add.48	Comments of the Human Rights Committee on States parties' reports - Paraguay
CCPR/C/79/Add.49	Comments of the Human Rights Committee on States parties' reports - Haiti
CCPR/C/79/Add.50	Comments of the Human Rights Committee on States parties' reports - United States of America
CCPR/C/79/Add.51	Comments of the Human Rights Committee on States parties' reports - Yemen
CCPR/C/79/Add.52	Comments of the Human Rights Committee on States parties' reports - Ukraine
CCPR/C/79/Add.53	Comments of the Human Rights Committee on States parties' reports - Latvia
CCPR/C/79/Add.54	Comments of the Human Rights Committee on States parties' reports - Russian Federation
CCPR/C/79/Add.55	Comments of the Human Rights Committee on States parties' reports - United Kingdom of Great Britain and Northern Ireland
CCPR/C/79/Add.56	Comments of the Human Rights Committee on States parties' reports - Sri Lanka

General comments

CCPR/C/21/Rev.1/Add.6	General comments adopted under article 40, paragraph 4, of the International Covenant on Civil and Political Rights - General comment No. 24 (52) (reservations and declarations)

Guidelines

CCPR/C/5/Rev.2	Revised guidelines regarding the form and contents of initial reports from States parties
CCPR/C/20/Rev.2	Revised guidelines regarding the form and contents of periodic reports from States parties

Provisional agendas and annotations

CCPR/C/99	Provisional agenda and annotations (fifty-second session)
CCPR/C/104	Provisional agenda and annotations (fifty-third session)
CCPR/C/107	Provisional agenda and annotations (fifty-fourth session)

Notes concerning the consideration of reports submitted by States parties

CCPR/C/100	Consideration of initial reports submitted by States parties under article 40 of the Covenant due in 1995: note by the Secretary-General
CCPR/C/101	Consideration of second periodic reports submitted by States parties under article 40 of the Covenant due in 1995: note by the Secretary-General
CCPR/C/102	Consideration of third periodic reports submitted by States parties under article 40 of the Covenant due in 1995: note by the Secretary-General
CCPR/C/103	Consideration of fourth periodic reports submitted by States parties under article 40 of the Covenant due in 1995: note by the Secretary-General

Summary records of Committee discussions

CCPR/C/SR.1358-1386	Summary records of the fifty-second session
CCPR/C/SR.1387-1415	Summary records of the fifty-third session
CCPR/C/SR.1416-1444	Summary records of the fifty-fourth session